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Report of the Working Group on the issue of discrimination against women in law and in practice

Note by the Secretariat*

The Secretariat has the honour to transmit to the Human Rights Council the report of the Working Group on the issue of discrimination against women in law and in practice, pursuant to Council resolutions 15/23, 26/5 and 32/4. In its report, the Working Group takes stock of the first six years of its mandate and analyses the lessons learned. While highlighting the successes, limitations and main challenges faced in the struggle for women's rights and empowerment, the Working Group reasserts women's fundamental right to substantive equality and calls for concerted efforts to counter rollbacks and the increasing attacks against the universality of women's human rights. It examines opportunities to strengthen the international women's human rights machinery, focusing particularly on its role in forging strategic partnerships and alliances and creating enabling environments to advance women's human rights. In the report, it also encapsulates its work and some of its impact, while setting the vision for the mandate in the coming years.

* The annex is being circulated without formal editing, in the language of submission only.

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I. Activities

1. The present report covers the activities of the Working Group on the issue of discrimination against women in law and in practice, from the submission of its previous report (A/HRC/35/29) to April 2018.

A. Sessions

2. The Working Group held three sessions in Geneva during the period under review. At its nineteenth session (15–19 May 2017), it held meetings with other special procedure mandate holders, a member of the Committee on the Elimination of Discrimination against Women, a member of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), representatives of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and representatives of several civil society organizations. The Working Group also started organizing the handover to the new members and discussed possible future thematic priorities. Jointly with civil society organizations and the Special Rapporteur on the situation of human rights defenders, it organized a well-attended public event on strengthening protection networks for women human rights defenders to combat discrimination.

3. At its twentieth session (9–13 October 2017), the experts completed the handover to their successors. The experts met with the new Special Representative of the Secretary-General on Sexual Violence in Conflict, organized an informal brainstorming session on the issue of surrogacy with the participation of the World Health Organization (WHO), the United Nations Population Fund (UNFPA), OHCHR and the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material (see A/HRC/37/60). The Working Group also organized a well-attended meeting with Member States.

4. At its twenty-first session (22–26 January 2018), the Working Group, including the four experts whose terms had begun on 1 November 2017, reviewed its working methods and elaborated the vision for the mandate in the coming years. It met with a former Working Group member, members of the Committee on the Elimination of Discrimination against Women, representatives of UN-Women, WHO and UNFPA and OHCHR staff. The Working Group also organized a meeting with Member States and Geneva-based civil society organizations. On 25 January, the International Gender Champions organized an event introducing the new experts to the Geneva international community.

B. Country visits

5. The experts visited Samoa from 8 to 18 August 2017 (A/HRC/38/46/Add.1) and Chad from 4 to 14 December 2017 (A/HRC/38/46/Add.2). The Working Group thanks the Governments of those countries for their cooperation before and during the visits. It also thanks the Government of Poland for having invited it to conduct an official visit in 2018. The Working Group currently has 32 pending requests for visits and encourages States to respond positively to those requests.

C. Communications and press releases

6. During the period under review, the Working Group addressed communications to Governments, individually or jointly with other mandate holders. The communications concern a wide range of subjects falling within its mandate, including discriminatory legislation and practices, allegations of abuse of women human rights defenders and violations of their rights, gender-based violence and violations of the right to sexual and

reproductive health.[1] The Working Group also issued press releases, individually or jointly with other mandate holders, treaty bodies and regional mechanisms.[2]

D. Other activities

7. Since its previous report to the Human Rights Council, the experts have undertaken numerous activities in their capacity as members of the Working Group (see annex).

II. Thematic analysis: reasserting equality, countering rollbacks

A. Introduction

8. In the present report, the Working Group takes stock of the first six years of its mandate and analyses the lessons learned. It is grateful for the responses to the questionnaire it sent out in July 2017 to all Permanent Missions in Geneva and other stakeholders, seeking information on lessons learned, key challenges and opportunities relating to the work of the mandate.

1. Conceptual framework

9. The Working Group, in establishing its conceptual framework and working methods, stressed that the elimination of discrimination against women in law and in practice required a comprehensive and coherent human rights-based approach that ensured that women were at the centre of efforts to hold principally States accountable for implementing international standards guaranteeing civil, political, economic, social and cultural rights (see A/HRC/20/28). The Working Group addressed the elimination of discrimination against women in law and in practice in all fields from the perspective of States' obligations to respect, protect and fulfil women's human rights.

10. It emphasized that national, regional and international human rights mechanisms, as well as grass-roots activists, played critical roles in ensuring the full enjoyment by women of their human rights. For legal guarantees to benefit all women, implementation frameworks and strategies must be responsive to the intersections of gender-based discrimination with other grounds of discrimination.[3]

11. Indeed, the work of the Working Group has covered all women, acknowledging that women are not a uniform group. Nearly 40 years of reporting to the Committee on the Elimination of Discrimination against Women have proven that there are multiple and intersecting forms of discrimination against women around the world and within countries that reinforce and sustain each other. All women, in their diversity and many different circumstances, are affected differently by discriminatory laws and practices. Nevertheless, there are shared aspects of discrimination against women that persist in all cultures, although with differing levels of intensity and differing impacts.

12. Furthermore, throughout the first six years of the mandate, there has been a need to constantly reiterate, even within the human rights system, that women are not just another vulnerable group, as they are often treated by some. They are half of the world population and often the majority of each of the vulnerable groups, hence eliminating the persistent discrimination and backlashes against women's rights should be addressed both as a stand-alone goal and as a mainstreaming issue.

13. The Working Group has observed how concepts such as "complementarity", "equity" and "protection of the family" have been used to undermine women's rights by challenging universal human rights to equality and non-discrimination. Such concepts are also employed to justify State and non-State violations of these rights, and non-compliance with State

[1] See www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Communications.aspx.
[2] See www.ohchr.org/EN/NewsEvents/Pages/NewsSearch.aspx?MID=WG_Women.
[3] See Committee on the Elimination of Discrimination against Women, general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, para. 18.

obligations to eliminate discriminatory practices based on stereotyped roles for men or women (see A/HRC/29/40).

14. In recent years, the Working Group has observed how the concept of gender itself has been challenged, misunderstood and misused to further undermine the struggle towards the elimination of discrimination against women and towards gender equality. In this regard, the hostilities against so-called gender ideology, particularly vehement in Latin America and Eastern Europe, exemplify the growing challenges in the quest for equality. Conservative lobbies advocating against gender ideology, presented as a threat to "traditional values", wrongly see efforts to advance gender equality as the imposition of ideas and beliefs that seek to destroy such institutions as the family, marriage and religious freedom. This movement has been particularly vocal in opposing policies or even debates on issues of scientifically based comprehensive sexuality education in schools, women's sexual and reproductive rights, marriage equality and gender-based violence. The term "gender" has, for instance, been challenged by the movement against the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) on the grounds that it imposes gender ideology. These conservative groups argue that international law prohibits only sex discrimination, denying that the term "gender" has been used in international norms and standards since the 1970s. The Working Group recalls that, in its general recommendation No. 28, the Committee on the Elimination of Discrimination against Women interpreted the prohibition of sex discrimination, as contained in the Convention on the Elimination of All Forms of Discrimination against Women, as including gender-based discrimination. Attacks against gender ideology are used by conservative actors to oppose the universal applicability of human rights standards on the basis of non-discrimination and to undermine achievements made in the recognition of women's human rights and in the implementation of gender equality.

2. A new sense of urgency

15. In the past six years, the Working Group has documented the gains made over decades of global advocacy. It has also drawn attention to the remaining gaps and the obstacles to achieve gender equality, particularly due to the rise of movements opposing the universality of women's rights, contributing to fragmenting and weakening the human rights system. This calls for all actors to unite in an effort to protect, promote and fulfil women's rights, while fighting against retrogressions. Yet, rising authoritarianism in political governance, economic crises and rocketing inequality and politicization of traditionalist religions have posed considerable challenges to the human rights system. The corrosion of women's human rights is a litmus test for the human rights standards of the whole of society.

16. Nearly 40 years after the adoption by the General Assembly of the Convention on the Elimination of All Forms of Discrimination against Women, no country in the world has successfully eliminated discrimination against women or achieved full equality. This should no longer be tolerated or normalized. Today, there is a need to protect the gains from the past and to urgently advance women's substantive equality, which is crucial for the indivisibility of human rights and for the human development of families, communities and countries. This new sense of urgency has led the Working Group to shed light on issues subjected to particular resistance and to reflect on ways to further strengthen women's human rights machinery in a collective struggle to eliminate discrimination against women.

B. Global context of persistent discrimination and backlashes against women's rights and the need to strengthen the protection system

1. Acknowledging progress made in advancing gender equality

17. Throughout its work, the Working Group has documented achievements, good practices and the main challenges in the quest for the elimination of discrimination against women.

18. International commitment to fulfilling women's right to political participation has grown substantially. Over the course of the twentieth century, women's right to vote has been almost universally implemented. In fewer than two decades after the Fourth World

Conference on Women: Action for Equality, Development and Peace, held in Beijing, the global average for women's political representation has doubled.[4] The introduction of quotas in some countries that were undergoing political transition resulted in significant increases in women's parliamentary representation. Positive trends have also been seen in terms of extending special measures and affirmative action to other areas of public life beyond parliamentary representation (see A/HRC/23/50).

19. In recent years, women demanding dignity and rights have marched worldwide and have increasingly used social media to take action. Technology has enabled new forms of women's political expression and engagement. Movements denouncing gender-based violence against women, such as #NiUnaMenos and #MeToo, have swept much of the globe, following decades of advocacy from women's rights movements demanding an end to violence against women in environments that normalize discrimination against women. Gender-based violence is one of the worst manifestations of such discrimination.[5]

20. Significant progress has been made in closing the gender gap in education, and women have increasingly participated in the cultural and scientific lives of their communities and nations.[6] Women's labour force participation has increased significantly and women entrepreneurs in small and medium-sized enterprises have made considerable contributions as crucial economic actors. Initial efforts have been made by some countries to increase women's participation in economic and financial leadership by imposing gender quota requirements for corporate boards. Moreover, in times of crisis, some countries have chosen alternatives to austerity measures to ensure women's continued economic inclusion (see A/HRC/26/39).

21. The right of women and girls to equality in the family has been recognized in international human rights law and guaranteed in most modern legal regimes, which have reformed family law systems to enshrine gender equality. In some countries, progress has been made in challenging gender stereotypes and the unequal roles and responsibilities attributed to women and men in the family. A considerable number of countries have developed laws criminalizing domestic violence and providing protection for victims (see A/HRC/29/40).

22. Efforts to combat negative stereotypical messages regarding women's bodies have been deployed by civil society organizations and international entities and have been incorporated in national policy by many Governments (see A/HRC/32/44). Women's sexual and reproductive rights have been increasingly recognized in international standards. Maternal mortality has been almost halved over the past 20 years.[7]

23. An impressive body of regional and international human rights standards has been developed over the past few decades, in which recognition and protection of women's right to equality has been central and prioritized. Considerable progress has been made in the number of national constitutions guaranteeing gender equality and laws enacted to prohibit sex discrimination and gender-based violence. In 1995, the Fourth World Conference on Women consolidated the hard-fought progress and achievements by agreeing on a comprehensive plan to advance women's right to equality: the Beijing Declaration and Platform for Action. In 2010, the Human Rights Council decided to establish the Working Group on the issue of discrimination against women in law and in practice as part of its independent fact-finding and monitoring mechanisms. While the founding of the Working Group is undoubtedly a success in terms of strengthening the women's rights machinery, it also reflects the recognition by the international community of the persistent discrimination against women worldwide.

24. Despite these achievements made over long years of struggle, discrimination against women and impunity for the violation of women's rights persist in both the private and public spheres, in times of conflict as in times of peace, and in all regions of the world. Not only is the advancement of women's rights and full equality too slow, uneven and far from a global

[4] See www.ipu.org/wmn-e/classif-arc.htm.
[5] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22759&LangID=E.
[6] See A/72/155 and www.unesco.org/new/en/natural-sciences/priority-areas/gender-and-science/.
[7] See www.unfpa.org/sites/default/files/pub-pdf/9789241507226_eng.pdf.

reality (see E/CN.6/2015/3), but women's hard-fought achievements now risk being reversed. An unprecedented pushback has been progressing across regions by an alliance of conservative political ideologies and religious fundamentalisms. Retrogressions have been occurring, often in the name of culture, religion and traditions, and threaten the hard-fought progress in achieving women's equality.

2. Deadlocks, retrogressions and backlashes

Family and culture

25. In its reports, the Working Group has demonstrated the persistence of a global discriminatory cultural construction of gender, often tied to religion, and the continued reliance of States on cultural justifications for adopting discriminatory laws or for failing to respect international human rights law and standards. It has particularly emphasized that failure to ensure the equality of women and girls within the family undermines any attempt to ensure their equality in all areas of society (see A/HRC/29/40).

26. Throughout its work, the Working Group has shown that discrimination against women and girls and the backlash against their rights all too often start in the family where, for example, women and girls are undervalued, may be limited to certain roles, experience harmful practices and patriarchal oppression, and suffer other human rights abuses, including domestic violence and sexual abuse. As indicated by the Working Group, although discriminatory laws governing family life have been repealed in most countries, such laws are still in force in a few others (ibid.). In some countries, women are deprived of their fundamental rights due to, inter alia, a lower minimum age of marriage for girls, guardianship systems, forced marriage, polygamous marriage, discrimination in nationality rights, divorce rights and unequal rights to custody, inheritance and access to property and land. In the name of perceived honour, purity and tradition, girls and women are subject to "honour" killing, child marriage,[8] widowhood rites and female genital mutilation,[9] among other violations of their rights. In some regions, there has been no progress at all towards eliminating child marriage.[10]

27. Within the United Nations system, the Working Group has observed that States have misused references to culture, religion and family in an effort to dilute their international obligations to fulfil women's rights and achieve gender equality. One extremely revealing fact is the high number of reservations to the Convention on the Elimination of All Forms of Discrimination against Women, particularly to article 16 on equality in the family,[11] in which States deny women's and girls' right to equality in deference to religious norms, and refute their accountability for the universal applicability of human rights (see A/HRC/29/40). This also shows that equality in the private domain — the family — remains one of the biggest hurdles to achieving gender equality.

28. Under the guise of protecting the family, some States are taking initiatives aimed at further diluting human rights. While recognizing that the family is the fundamental group unit of society and is entitled to protection, the Working Group insists on the need to reassert women's right to equality in all aspects of family life and to recognize that diverse forms of family exist. Protection of the family cannot be used as a justification for laws, policies or practices that would deny women and girls their full and equal human rights (ibid.). The advancement of women and girls depends on the recognition in law and in practice of their right to equality as members of communities and families.

29. As the Special Rapporteur in the field of cultural rights has highlighted, diverse religious fundamentalists often work together tactically at the international level to thwart advances in women's human rights. She has also observed that enabling women's enjoyment

[8] See www.girlsnotbrides.org/what-is-the-impact/.
[9] See www.unfpa.org/female-genital-mutilation.
[10] See www.unicef.org/media/media_102783.html.
[11] See www.universal-rights.org/urg-policy-reports/march-universality-religion-based-reservations-core-un-human-rights-treaties-tell-us-human-rights-religion-universality-21st-century/.

of all human rights, including cultural rights, is an essential component in the fight against extremism, fundamentalism and terrorism (see A/HRC/34/56).

30. While the Working Group is committed to the principle of upholding freedom of religion or belief as human rights to be protected, it regrets the increasing challenges to gender equality in the name of religion. It joins other international human rights expert mechanisms in reiterating that freedom of religion or belief should never be used to justify discrimination against women (see A/HRC/29/40).

Women's autonomy and sexual and reproductive rights

31. It is in this context of rising fundamentalisms and backlashes against women's rights that the current discourse on women's sexual and reproductive rights is taking place at the international level. Too many women are being deprived of their sexual and reproductive health and rights. While the maternal mortality rate has declined, over 800 women still die every day from preventable causes related to pregnancy and childbirth, with the lives of the most marginalized women at the highest risk.[12] An estimated 225 million women are deprived of access to essential modern contraception,[13] often leading to unplanned pregnancies. For girls, pregnancy and childbirth is one of the most common causes of death in developing countries, with girls under 15 years of age facing five times the danger. As a result of unsafe abortions, each year some 47,000 women die,[14] and a further 5 million suffer temporary or permanent disability.[15]

32. In some countries, women still live with the threat of criminal punishment for sexual or reproductive conduct such as adultery, prostitution/sex work or termination of pregnancy. In others, women are even accused of murder if they have a miscarriage or obstetric complication (see A/HRC/32/44). Criminalization of behaviour that is attributed only to women is inherently discriminatory.[16] So is denying women's autonomous decision-making and access to services that only women require and failing to address their specific health and safety, including their reproductive and sexual health needs.

33. Some 25 per cent of the world's population lives in countries with highly restrictive abortion laws. The Working Group has documented how politicized religious conservative movements in numerous countries have influenced decision-making to either halt or roll back progress, making concerted efforts in various regions to retain or even introduce prohibitions on termination of pregnancy. In a few countries, there have been attempts made to have a total ban, even where the pregnancy threatens the life of the pregnant woman. There have also been moves to further restrict funding of contraceptives. The commitment to upholding women's human rights regarding termination of pregnancy, as evident in some pioneering high court decisions, has not been upheld by all the highest courts in different regions.[17]

34. The Special Rapporteur on cultural rights has shown how fundamentalist and extremist abuses of cultural rights aim to limit the enjoyment of women's human rights and restrict the sexual and reproductive rights of all (see A/HRC/34/56). In this regard, the Working Group reaffirms that health-care providers' conscientious objections to reproductive health care cannot be accommodated if such objections would put women's health or lives in danger.

35. The right of a woman or girl to make autonomous decisions about her own body and reproductive functions is at the very core of her fundamental right to equality and privacy, involving intimate matters of physical and psychological integrity, and is a precondition for the enjoyment of other rights.[18] Countries where women have the right to termination of

[12] See www.unfpa.org/maternal-health.

[13] See www.who.int/reproductivehealth/publications/family_planning/human-rights-contraception/en/.

[14] See www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en/.

[15] See http://siteresources.worldbank.org/INTPRH/Resources/376374-1261312056980/RHAP_Pub_8-23-10web.pdf.

[16] Ibid. See also www.amnesty.org/en/latest/campaigns/2018/03/un-body-politics-explainer/.

[17] See www.ohchr.org/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf.

[18] See International Covenant on Civil and Political Rights, arts. 3 and 17.

pregnancy and are provided with access to information and to all methods of contraception have the lowest rates of termination of pregnancy. In countries where induced termination of pregnancy is restricted by law and/or otherwise unavailable, safe termination of pregnancy is a privilege of the rich, while women with limited resources have little choice but to resort to unsafe providers and practices. WHO data has clearly demonstrated that criminalizing termination of pregnancy does not reduce the number of women who resort to abortion procedures. Rather, it is likely to increase the number of women seeking clandestine and unsafe solutions. Indeed, 25 million unsafe abortions are still performed each year.[19]

36. In the current discourse, the need to put women's human rights at the centre of policy considerations regarding termination of their pregnancy is being obfuscated by the rhetoric and political power behind the argument that there is a symmetrical balance between the rights of two entities: the woman and the fetus. However, there is no such contestation in international human rights law. It was well established in the 1948 Universal Declaration of Human Rights and upheld in the International Covenant on Civil and Political Rights that the human rights accorded under international human rights law are accorded to those who have been born. Article 1 of the Universal Declaration provides that all human beings are born free and equal in dignity and rights. Those who believe that personhood commences at the time of conception have the freedom to act in accordance with their beliefs, but not to impose their beliefs on others through the legal system.[20]

37. The Working Group reiterates that much of the discrimination women face in terms of their right to access health services relating to their pregnancy and their resulting preventable ill-health, as well as maternal mortality and morbidity, can be attributed to the instrumentalization and politicization of women's bodies and health (see A/HRC/32/44). Criminalizing termination of pregnancy is one of the most damaging manifestations of that instrumentalization, subjecting women to risks to their lives or health and depriving them of autonomy in decision-making. The lack of universal access to comprehensive sexuality education and contraceptive information and services, particularly for adolescents and girls, and the practice of child marriage, lead to teenage pregnancy and the exclusion of girls from education and employment, hence limiting their enjoyment of many other rights.

Economic and social participation

38. In its reports, the Working Group has demonstrated how women still face structural disadvantages and discrimination in the economic and social spheres throughout their life cycle. Social and cultural barriers still prevent many girls from completing their education, and legal discrimination, entrenched inequalities in wages and labour force participation and caring responsibilities prevent women from participating equally in economic and social life. Women do 2.6 times more unpaid care and domestic work than men.[21] Older women suffer from a gender pension gap, making them particularly vulnerable to poverty, and all women face the persistent risk of sexual harassment and other forms of gender-based violence in schools, workplaces and other public places, in addition to the home (see A/HRC/26/39).

39. Indeed, women continue to be paid less than men for work of equal value and are severely underrepresented in top leadership in decision-making bodies in business, finance and trade, including in international institutions such as the International Monetary Fund and the World Trade Organization, and in cooperatives and trade unions. Furthermore, women have been grossly underrepresented in the formulation of the macroeconomic policies that have led to rocketing inequality, austerity measures and the undermining of care services on which women are more dependent than men. Today, there are more girls in schools than ever before, but one out of five adolescent girls is still out of school.[22] Moreover, women's higher

[19] See www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en/.

[20] See www.ohchr.org/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf.

[21] See www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2018/sdg-report-gender-equality-in-the-2030-agenda-for-sustainable-development-2018-en.pdf?la=en&vs=5653.

[22] See http://uis.unesco.org/sites/default/files/documents/fs48-one-five-children-adolescents-youth-out-school-2018-en.pdf.

educational achievements worldwide have not always translated into corresponding leadership positions or even equality in the economic field. While more women have entered the workforce, they still represent only 49 per cent of working age women,[23] against 75 per cent of working age men.[24] Globally, the gender pay gap still stands at 23 per cent.[25] Women often have access only to vulnerable forms of employment; the majority of women in developing countries are employed in the informal sector or in family businesses, and do not always receive wages directly. In countries where women's income mainly comes from agricultural activities, they generally have very limited ownership of land.[26]

40. While women's economic empowerment has proven to be among the least controversial issues relating to gender equality, the underlying cultural, social and political causes of economic inequality have not been successfully and fundamentally tackled. Women's economic and social rights will never be fulfilled if the necessary infrastructure for care services, enforcement of equal pay for work of equal value, and regulation of women's labour rights in the informal sector, in which many women are employed globally, are not put in place.

Political and public participation

41. Throughout its work, the Working Group has showed that globally, women remain underrepresented in all branches and at all levels of government. The percentage of women parliamentarians around the world still stands at only 23 per cent and only 17 per cent of Heads of State or Government are women.[27] Women are also underrepresented in international and regional entities,[28] and their voices and concerns are often omitted from peace agreements and rebuilding strategies. The Working Group has recognized that democratic deficits, poverty and social exclusion, inequality in the family, violence and stereotyping are all persistent barriers to women's full enjoyment of their rights to political participation (see A/HRC/23/50).

42. The Working Group has also expressed growing concern regarding the unique challenges faced by women human rights defenders around the world, driven by deep-rooted discrimination against women and stereotypes about which roles are "appropriate" for women in society. Today's rising fundamentalisms of all kinds, coupled with political populism, unchecked authoritarian rule and disproportionate focus on corporate profits over human rights, have altogether intensified the obstacles defenders face. For instance, those working on rights contested by fundamentalist groups (women's sexual and reproductive rights) and those denouncing the actions of extractive industries and businesses face a heightened risk of violence, including murder.[29]

Taking stock

43. During the first six years of the mandate, the experts have identified the fact that, of the many obstacles to gender equality that women face throughout their life cycle, the areas of family, culture and sexual and reproductive rights remain the most significant challenges and are those in which there has been a backlash against gains in women's equality. The Working Group regrets that women's economic empowerment and political participation are too often tackled as isolated issues. The interdependence of human rights cannot be overlooked: persistent discrimination in family, cultural and sexual and reproductive rights have a debilitating impact on women's capacity to claim equal standing in all aspects of life. This selective approach towards discrimination against women is an unfortunate practice by States and within the United Nations system, and is a core problem affecting the way gender equality is addressed and a major obstacle to sustainable progress. Without eliminating

[23] See https://data.worldbank.org/indicator/SL.TLF.CACT.FE.NE.ZS?view=chart.
[24] See https://data.worldbank.org/indicator/SL.TLF.CACT.MA.NE.ZS?view=chart.
[25] See http://interactive.unwomen.org/multimedia/infographic/changingworldofwork/en/index.html.
[26] See www.ohchr.org/Documents/Issues/Women/WG/Womenslandright.pdf.
[27] See www.unwomen.org/en/digital-library/publications/2017/4/women-in-politics-2017-map.
[28] See www.gqualcampaign.org/home/.
[29] See www.ohchr.org/EN/Issues/Women/WGWomen/Pages/WomenHumanRightsDefendersGender.aspx.

discrimination in family, cultural and sexual and reproductive rights, there will be no lasting progress in the other fields.

3. Strengthening the system to better promote and protect women's rights in a comprehensive manner

44. In its resolution 35/18, the Human Rights Council expressed profound concern about the backlash against the progress made by civil society to fulfil women's human rights. Throughout its mandate, the Working Group has witnessed the resurgence of a very conservative and retrogressive narrative in international forums and at the national level, and attempts to reinstate policies or legislation that are harmful to women. Such laws or policies particularly affect women's enjoyment of their right to equality in the family and their rights to health and autonomous decision-making.

45. As reported in a study on the impact of conservative actors in the international arena, there have been concerted efforts to water down existing agreements and commitments and to introduce regressive language in international human rights documents. There have also been attempts to undermine United Nations agencies, treaty monitoring bodies and special procedures. Anti-rights actors' discourses and strategies have led to deadlock in negotiations and had a substantive impact on the human rights framework and the progressive interpretation of human rights standards, especially those relating to gender equality and sexuality.[30]

46. Furthermore, the Working Group has observed that the women's human rights agenda is significantly fragmented. The selective prioritization of the less controversial issues means that gender equality is not addressed in a comprehensive manner, neglecting the interdependence and indivisibility of women's human rights. The Working Group recognizes the considerable progress made in terms of mainstreaming gender within the United Nations system. However, the impact of such efforts will remain insufficient as long as the United Nations system shies away from addressing the nuclei of resistance that are negatively affecting women's rights.

47. The Working Group concurs with the Special Rapporteur on cultural rights, who emphasized that all such anti-rights trends, whether on the part of States or non-State actors, at the international or national levels, must be met with a vigorous international human rights-based challenge, which must centre women's human rights (see A/72/155, para. 3). In this context of backlashes, devoting adequate resources to mechanisms working to achieve women's human rights is crucial. So too is enhancing communication and collaboration between all stakeholders and avoiding any inconsistency within the system.

48. At a time when the world should be moving relentlessly forward towards ever greater equality and the elimination of discrimination, women's rights activists find themselves far too often confronted by those who would use the specious justifications of tradition, culture, religion or State sovereignty to keep women from taking their rightful place in society and family as equals, or from exercising full control over their bodies and their personhood. Despite the principle, upheld in the Vienna Declaration and Programme of Action, that human rights are universal, indivisible and interdependent, the Working Group has observed efforts by conservative actors and fundamentalist groups to undermine the foundation on which the whole human rights system is based. The Working Group insists that global leadership, including international human rights bodies, States, United Nations entities and civil society, needs to guard against the backlash, to ensure that the human rights legal framework is not undermined. The Working Group considers that the time has come to review with a critical lens the unfulfilled commitments made to women and to take corrective action.

[30] See www.awid.org/ours-report.

C. The Working Group's efforts to contribute to the advancement of the elimination of discrimination against women

49. In the face of this backlash, the Working Group has consistently reiterated its call for the elimination of any laws, policies or practices that have a discriminatory effect on women and girls, and has committed to denouncing any anti-rights rhetoric and actions that hinder the upholding of human rights standards, particularly regarding gender equality.

1. The Working Group's work

50. The Working Group has deployed considerable efforts to contribute to the advancement of substantive equality and the development of progressive standards in a number of thematic areas. It has challenged the status quo and addressed topics where norms are contested or fragile but where protection of women's human rights is essential to the achievement of equality and the elimination of discrimination against women.

51. Since its establishment in 2010, the Working Group has sought to organize its work in the manner that best serves the mandate given to it by the Human Rights Council and that best advances the elimination of discrimination against women (see A/HRC/20/28). The Working Group has sought to assist States and other stakeholders to find and maintain the political will necessary to fulfil their obligations under the Convention on the Elimination of All Forms of Discrimination against Women and to create an environment that is conducive to achieving gender equality and empowering all women and girls, in accordance with Goal 5 of the Sustainable Development Goals, but also the cross-cutting principle of leaving no one behind.

52. In view of the work being carried out by international and regional human rights bodies and other special procedure mandate holders, the Working Group agreed that it would build on existing standards and initiatives, and on the available knowledge and tools produced to date by States, United Nations bodies, national human rights institutions and civil society organizations. In accordance with the mandate provided by the Human Rights Council in resolution 15/23, the Working Group has sought to draw upon the findings of the United Nations human rights machinery and the broader United Nations system.

53. Like many special procedure mandates that share areas of thematic focus with treaty bodies and United Nations bodies, the Working Group has worked to take advantage of its complementarity with the Committee on the Elimination of Discrimination against Women, UN-Women, the Special Rapporteur on violence against women, its causes and consequences, and other mandate holders to ensure that its actions are mutually reinforcing with those of others dedicated to the colossal task of eliminating the discrimination that still has a daily impact on the lives of half the world's population. In its resolution 23/7, the Human Rights Council recognized the constructive approach of the Working Group.

54. The Working Group has sought to maximize the impact and utility of the tools that are available to special procedures. It has also sought to make the best possible use of its convening capacity as a Working Group, through its annual sessions in Geneva and New York.

55. Additionally, it has taken advantage of new opportunities to advance the elimination of discrimination against women, including by contributing to global processes such as the Sustainable Development Goals and the Commission on the Status of Women, submitting amicus briefs in relevant court cases and developing position papers on particular women's human rights issues that needed further clarification. In accordance with its mandate, the Working Group has based its work on international human rights laws and standards, but also compiled good practices going beyond these standards.

Thematic reports

56. In order to better fulfil its mandate, the Working Group has systemized its analysis in five thematic areas: political and public (A/HRC/23/50), economic and social (A/HRC/26/39), family and culture (A/HRC/29/40), health and safety (A/HRC/32/44) and good practices (A/HRC/35/29). The Working Group has managed to embrace all areas

affecting women's lives and give a broad and comprehensive overview of the persistent and global discrimination against women and girls, in a concise and timely manner.

57. In its reports, the Working Group has striven to provide practical tools for States and other stakeholders to address the major causes of and trends in discrimination against women. While a plethora of literature exists on these topics, in its reports, the Working Group has condensed the available information in order to enhance its practical utility, and has sought to consistently advance progressive standards at the international level.

58. In their responses to the Working Group's questionnaire, States agreed that despite polarization and the sometimes contested nature of women's human rights within the Human Rights Council, the reports of the Working Group have influenced the language of Council resolutions. For instance, in its resolution 35/18, the Council included progressive language directly derived from the Working Group's reports with regard to the right to bodily autonomy, the naming of patriarchal norms, the existence of a democratic deficit due to barriers to women's political participation and recognition of the important role of feminists and women human rights defenders. Language from the Working Group's reports was successfully incorporated in previous Council resolutions on discrimination against women,[31] with some exceptions, particularly regarding issues relating to social protection floors, equality in the family and safe access to termination of pregnancy.

59. In its response to the questionnaire, one State reported that the Working Group's work had inspired its national human rights institution to make recommendations focusing on discrimination in cultural and family life. Another State indicated that the Working Group's reports had had an impact at the national level, including by being referred to by the parliament in the framework of legislative initiatives. Another State reported that the Working Group's reports had proven particularly useful as a reference in the process of drafting a national action plan on human rights.

Country visits

60. Through its country visits,[32] the Working Group has worked with States and other stakeholders to identify and promote good practices and exchange views on challenges relating to the elimination of discriminatory laws and practices and has made recommendations on the improvement of legislation and implementation of the law in a manner that contributes to the empowerment of women. In preparing for country visits, the Working Group works with United Nations country teams, including UN-Women, when present. Its preparation includes following up on recommendations of the Committee on the Elimination of Discrimination against Women and those of other special procedures. While in the country, the Working Group systematically meets with all stakeholders at the national and local levels, engages with communities, individual women, women's organizations, and traditional and religious leaders. It has striven to prepare comprehensive end-of-mission statements that can build on the momentum of the visit to have maximum impact and provide a preliminary road map to the elimination of laws and practices that discriminate against women. The Working Group has also been able to visit a State that has not ratified the Convention on the Elimination of All Forms of Discrimination against Women and is thus not subject to review by the Committee.

61. Some of the country visits have been valuable in bringing about changes to law and practice. Following one country visit, a State approved a series of amendments to its legislation on gender equality, including, as recommended by the Working Group, adopting quotas for a minimum of 40 per cent for both sexes in government positions and on political party electoral lists. The same State reported that the Working Group's visit had been useful for the establishment of its national human rights institution. Another State re-established the practice of distributing emergency contraception following a recommendation from the Working Group, and another set up a committee to reform discriminatory provisions in its Family Code. Further to a Working Group recommendation, one State halted plans for the

[31] See http://ap.ohchr.org/documents/dpage_e.aspx?m=188.

[32] See www.ohchr.org/EN/Issues/Women/WGWomen/Pages/CountryVisits.aspx.

reinstatement of corporal punishment in schools, and another considered for the first time in its parliament a law to combat gender-based violence.

62. The Working Group has also sought to implement effective follow-up to its country visits, within the limits of the resources available, by sending follow-up letters and making them and the responses publically available. It is regrettable that only one State has responded thus far to the follow-up letters.[33]

Communications

63. In its communications to States,[34] the Working Group has sought to collaborate with other mandate holders, sending mainly joint communications on cases that involved cross-cutting human rights issues. It has also used this tool to initiate a dialogue on selected widespread discriminatory laws and policies, such as discrimination against women in nationality laws, marital status and criminalization of adultery. Between 1 January 2011 and 31 March 2018, the Working Group sent 259 communications, 165 of which were sent jointly with other mandate holders. Unfortunately, of all the communications sent, only 83 substantive replies were received from States.

64. Communications sent by the Working Group, independently and jointly with other mandate holders, have contributed to reforming discriminatory laws and policies. For example, States have amended nationality laws that denied women the right to confer citizenship on their children on an equal basis with men, and marriage laws that provided different minimum ages of marriage for boys and girls. Additionally, following one communication by the Working Group, a national law society removed from its website a note about discriminatory practice in terms of succession rules. The communications have also supported action for the release or acquittal of women imprisoned or prosecuted under discriminatory laws, including women who were imprisoned and threatened with flogging for charges including apostasy, adultery, "indecent dressing", a woman imprisoned for having suffered a miscarriage and a migrant woman who was accused of killing her employer after he threatened at knifepoint to rape her. In responding to the Working Group's questionnaire, one State acknowledged that it had instituted new protocols and new training methods for State employees as a result of a communication from the Working Group.

Working Group sessions

65. The Working Group holds three one-week sessions every year. It has used the sessions as an opportunity to meet with States and civil society organizations, and to engage in dialogue and exchange views in order to make progress in the elimination of discrimination against women. It has also viewed the sessions as an opportunity to improve its collaboration with other mechanisms working on women's human rights and other stakeholders, systematically organizing meetings with other special procedures, treaty body experts, United Nations entities, intergovernmental organizations, States and civil society from all regions. In meeting with stakeholders, the Working Group has sought their contributions to the preparation of its thematic reports, and aimed to enable each entity to benefit from one another's expertise, as well as trying to create new synergies and ensure consistency within the system. These goals also underlie the Working Group's use of its sessions to convene two joint meetings with regional women's human rights mechanisms.[35]

Other tools

66. The Working Group has used amicus briefs, submitted independently or jointly with other mandate holders, to offer national courts expert advice on issues of domestic law that are directly related to States' international human rights obligations to eliminate discrimination against women.[36] The expertise of the Working Group is also reflected in the

[33] See www.ohchr.org/EN/Issues/Women/WGWomen/Pages/CountryVisits.aspx.

[34] See www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Communications.aspx.

[35] See www.ohchr.org/Documents/Issues/Women/WG/IRMechanismsWomens_Conceptnote.pdf and www.ohchr.org/Documents/Issues/Women/WG/outcome_document.pdf.

[36] See www.ohchr.org/EN/Issues/Women/WGWomen/Pages/AmicusCuriae.aspx.

position papers it has issued, which seek to provide conceptual clarity on selected areas affecting the enjoyment of women's rights where there may be widespread misunderstanding, misconception, misperception or underdeveloped interpretation of standards. Thus far, position papers have covered issues such as discrimination against women in nationality,[37] criminalization of adultery,[38] women's land rights,[39] and women's autonomy, equality and reproductive health.[40] These papers are particularly valuable given the limited space available to focus on thematic areas, especially since the Working Group does not report to the General Assembly.

67. The Working Group has brought its expertise in the area of women's human rights to bear in relevant global processes in order to ensure that a rights-based perspective is incorporated in global efforts to achieve equality and eliminate discrimination. Independently and jointly with other mechanisms, it has contributed to the processes of development and achievement of the Sustainable Development Goals.[41] It has also led the special procedures in an ongoing effort to ensure that Human Rights Council resolutions on protection of the family are grounded in the understanding that discrimination against women within the family is barred by international human rights law, and that true equality for women and girls can never be achieved if they are treated unequally within their own homes.[42]

68. The Working Group has sought to cooperate with other special procedure mandate holders in order to mainstream a gender perspective and to reinforce their shared goal of advancing women's human rights. For instance, the Working Group has engaged in a productive and sustained collaboration with the Special Rapporteur on human rights defenders, in order to address the specific issues faced by women human rights defenders. It has also contributed to the reports of a number of other special procedure mandate holders and submitted its views to treaty bodies in the process of drafting general recommendations and general comments.

69. The Working Group has regularly contributed to the dialogue held by States at the Commission on the Status of Women on the achievement of equality by women and girls and the empowerment of women, and for the first time in 2018 contributed formally to the Commission's general discussion. The Working Group has persisted in its effort to contribute to the work of the Commission, despite not yet having been allocated a formal role under the Commission's methods of work, such as that granted to the Special Rapporteur on violence against women and the Chair of the Committee on the Elimination of Discrimination against Women.

2. Lessons learned and opportunities for improvement

70. The Working Group has identified a number of steps that could be taken in order to enhance the institutional effectiveness of the international system in eliminating discrimination against women and promoting gender equality, as detailed in the conclusions and recommendations contained in the present report.

71. Formal involvement of the Working Group in the Commission on the Status of Women, instituted for the first time in 2018, further to the request of the Human Rights Council in its resolution 35/18, is an important step in bringing the Working Group's expertise on women's human rights to the principal global intergovernmental body dedicated to the promotion of gender equality and the empowerment of women.

72. Furthermore, the responses to the Working Group's questionnaire revealed that several States were unaware of all the work undertaken by the Working Group and the efforts

[37] See www.ohchr.org/Documents/Issues/Women/WG/DiscriminationAgainstWomenNationality.pdf.
[38] See www.ohchr.org/Documents/Issues/Women/WG/AdulteryasaCriminalOffenceViolatesWomenHR.pdf.
[39] See www.ohchr.org/Documents/Issues/Women/WG/Womenslandright.pdf.
[40] See www.ohchr.org/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf.
[41] See www.ohchr.org/Documents/Issues/Women/WRGS/WGcontributions_to_Post2015DevelopmentAgenda.pdf.
[42] See www.ohchr.org/Documents/Issues/Women/WRGS/JointLetterPresidentHRCProtectionFamily.pdf.

deployed to engage with all stakeholders. One of the aims of the present report was to comply with States' requests in their responses to give its work and activities more visibility and to seek additional ways of improving its outreach. Unfortunately, due to limited resources, the Working Group has experienced challenges in sustaining meaningful cooperation strategies with all stakeholders, particularly with regional human rights mechanisms, or any outreach strategy ensuring that its work is duly disseminated.

D. Setting the vision for the next years of the mandate

73. Despite considerable achievements in advancing women's rights, overall progress towards an equal and just society where women are free from discrimination has been slow and uneven across the globe. Marginalized groups of women remain left behind, while political conflict and natural disasters have created new populations of women in situations of vulnerability. The recent resurgence of populism, xenophobia, religious fundamentalism and sexism pose complex challenges for women who continue to battle on many fronts for their rights and dignity (see A/HRC/35/29).

74. The extraordinarily challenging current context highlights the need to reassert the human rights of women so that every woman and girl can aspire to equality and live a life of dignity and respect. Achieving this vision requires a renewed focus on maintaining and building upon the gains already made, and preventing rollback. This means taking stock of the fulfilment of women's rights globally, celebrating and learning from the progress that has been made, shining a light on areas where women's rights remain fragile and under attack. Research from 70 countries over four decades has recognized the role of autonomous feminist organizations in advancing women's rights as the most critical factor in the implementation of gender equality policies.[43] As such, creating enabling environments for women's human rights defenders and women's organizations is vital for advancing gender equality, and sustaining positive change is a priority.

75. The Working Group will be guided by an overarching framework of preventing rollback and reasserting equality, and will focus on the areas outlined below in its annual thematic reports.

1. Women left behind: the causes and consequences of cumulative, multiple and intersecting discrimination against women, with a case study on women deprived of liberty

76. In the context of growing inequalities, the Working Group will explore the causes and consequences of multiple and intersecting forms of discrimination against women, examining the social, economic and political factors that push particular groups of women to the margins. It will also examine the causes and consequences of multiple deprivations experienced by some groups of women, which include a lack of access to basic services, economic insecurity, the lack of a voice in decision-making, vulnerability to violence and poor access to justice. To illuminate the causes and consequences of multiple deprivations experienced by women, the Working Group will present a case study on how the failure of States to protect the human rights of the most marginalized women results in the deprivation of their liberty through detention and imprisonment and other forms of confinement in the private and social context.

2. Protecting and realizing women's rights in the changing world of work

77. The Working Group will examine women's rights in the world of work in the context of the rapidly changing nature of work, including informal work, increasing automation, digital platforms, the so-called gig economy and job insecurity. While in recent decades, increasing numbers of women have been engaging in paid work across the world, this progress has not been matched with improving pay, conditions and the security of women's work. In developing nations, many women work in informal and vulnerable forms of

[43] S. Laurel Weldon and Mala Htun, "Feminist mobilisation and progressive policy change: why governments take action to combat violence against women", Gender & Development, vol. 21, No. 2 (July 2013).

employment and the issue of unpaid care work remains a major challenge globally. Systemic discrimination continues to pose a barrier worldwide to women's enjoyment of their right to work, including their lack of access to decent work and workplace entitlements, and the increasing recognition of sexual harassment in the workplace. With the nature of work changing rapidly, there are both opportunities and risks for women's economic rights.

3. Ensuring the prioritization of sexual and reproductive health and rights in situations of crisis and insecurity

78. The Working Group will examine how women's sexual and reproductive health and rights can be better protected in times of crisis. There is growing evidence that in times of crisis and insecurity — whether stemming from natural disasters, conflict or other emergencies — women's and girl's sexual and reproductive health and rights are particularly at risk and not adequately recognized, leading to a higher risk of unplanned pregnancy and death during childbirth. In such situations, child, early and forced marriage are known to increase and women are more vulnerable to sexual and other forms of violence and exploitation. The Working Group will examine the factors that put women's sexual and reproductive health at risk in conflict and emergency settings and will attempt to set out the standards and good practices needed to protect women's and girls' sexual and reproductive health and rights in a crisis-prone world.

4. Realizing the rights of girl children and adolescent girls

79. The Working Group will examine the situation of girl children, which has not yet been given the comprehensive attention it deserves. Girl children and adolescent girls face unique challenges from multiple and intersecting forms of discrimination, which are often neglected. Families and communities perpetuate gender stereotypes that undervalue girls and deprive them of agency and opportunities. For example, families may not invest in girls' education as they do for boys, and girls are often forced into early marriage. Early marriage and the instrumentalization of girls' bodies often result in teenage pregnancy, with irremediable consequences for girls' health and opportunities. The report will also be an opportunity to address the gaps in national and international policies and strategies to tackle the specific obstacles faced by girl children and adolescent girls. Uncovering the human rights violations faced by girls is key to understanding the life cycle of women's inequality, while their empowerment is a sine qua non for just societies and achievement of gender equality. The Working Group will identify abuses and risks faced by girls during childhood and adolescence worldwide, and restate and progressively develop the standards in this area.

5. A rapidly shifting world: emerging issues and strategies for the realization of women's rights

80. The Working Group will take stock of emerging issues in the global context and their impact on the realization of women's and girls' human rights. Specifically, the Working Group will look at broader economic, environmental and social trends such as the climate crisis, rapid environmental degradation, growing inequalities, technological disruption and demographic change, through the lens of women's human rights. It will also examine emerging strategies for advancing women's right to equality, such as the increasing use of technology to mobilize and connect women's movements and the accountability of men and other actors for women's rights.

81. Beyond this thematic approach, the Working Group intends to ensure continuity with regard to the methods of work and the vision of the previous members of the Working Group, including by strengthening cooperation and alliances with international and regional human rights bodies, working more closely with regional and grass-roots organizations and continuing its efforts to improve its outreach to all stakeholders.

III. Conclusions and recommendations

A. Conclusions

82. **The road to gender equality and the full realization of women's and girls' human right remains long and challenging. Women are scarcely represented in national and global political and economic decision-making bodies and are too often overrepresented in vulnerable employment and paid less than men, impeding their economic independence. They face pervasive violence, lack control over their bodies and lack autonomy, and are too often seen as sexualized objects. In all spheres of life, power and entitlement are still concentrated in the hands of men. Women facing multiple and intersecting forms of discrimination experience inequality even more acutely. The continuing existence of direct and indirect discrimination, both visible and invisible, is the reason why women lag behind in nearly all human progress indicators.**

83. **Equality between women and men is humanity's struggle. In the face of discrimination against women and one of its worst manifestations, gender-based violence, everyone has a duty to act. The international community must move forward on setting and implementing standards on gender equality to counter the alarming trends towards undermining human rights principles and jeopardizing the gains made in women's rights. Solidarity and unity among the whole human rights movement is crucial. While acknowledging that there is great diversity within the feminist movement, and that experiences, perspectives and objectives vary, differences need to be overcome and objectives reconciled to unite against fundamentalists who oppose gender equality.**

84. **Efforts to mainstream gender have constituted a positive step, but they will remain insufficient as long as the United Nations system shies away from addressing nuclei of resistance and maintains its fragmented policies. Recognition of the interdependence of equality in all fields of women's life is key to achieving full and lasting equality. Isolated or sectoral measures focused on the least controversial fields are inappropriate to address root causes of persistent discrimination. There is an urgent need to improve the coherence of international mechanisms aimed at eliminating discrimination against women and a need for global leadership and partnerships.**

85. **International human rights bodies and United Nations entities need to guard against the current backlash in order to ensure that the human rights legal framework is not undermined. The human rights community should make every effort to block any position in international human rights spaces that endorses patriarchal and discriminatory norms, misusing culture, religion and State sovereignty as fallacious justifications. Women's human rights are fundamental rights that cannot be subordinated to cultural, religious or political considerations.**

86. **Freedom of religion should not be opposed to gender equality, and human rights-based education should be used as the main catalyst for change. The Working Group reiterates that there should be no compromise or tolerance for human rights violations or rollback of international human rights standards.**

87. **States have legal obligations to fulfil women's right to equality. It is therefore essential to apply the existing human rights obligations of Member States, making sure that there is both awareness of and accountability for elimination of discrimination against women and empowerment of women within this framework. States have a duty to respect women's human rights and to exercise due diligence to ensure that those rights are not violated by the State, its agents, private corporations, armed groups or individuals. Equality in law and in practice, which enables women to participate fully in political, public, economic and social life, is also a crucial factor for the success of sustainable development. The costs of discriminatory practices in terms of health, education and economic development are a barrier to sustainable development. The goals, targets and indicators of the 2030 Agenda for Sustainable Development should be interpreted through the lenses of human rights obligations. The Sustainable Development Goals should be seen as an opportunity to make progress on the**

elimination of discrimination against women and gender equality, not to dilute States' human rights obligations.

88. Today, the human rights community needs more than ever to unite forces to preserve the democratic space. The fight against all forms of discrimination against women must continue until women everywhere obtain full equality in public, political, economic, social, family, cultural and religious life and in health. Practices such as polygamy, child marriage, female genital mutilation and "honour" killings have no place in any democratic society. The voices of women human rights defenders must not be silenced.

89. It has been 70 years since women's right to equality was enshrined in the Universal Declaration of Human Rights, nearly 40 years since the ground-breaking Convention on the Elimination of All Forms of Discrimination against Women came into existence and 25 years since the Vienna Declaration and Programme of Action established that women's rights are an indivisible part of human rights. The Working Group calls for immediate action: waiting for the next century to achieve equality is intolerable, as is rolling back hard-fought gains. There is no acceptable justification for waiting for the elimination of discrimination against women; it is a long overdue political commitment that must be fulfilled without delay.

B. Recommendations

90. The Working Group recommends that States:

(a) Give the issue of women's right to equality high visibility and top political priority;

(b) Systematically integrate into legislation and policy the recommendations contained in the Working Group's thematic and country reports and its communications in order to ensure that obligations to eliminate discrimination against women are met;

(c) Repeal all discriminatory laws and practices, including those that discriminate against women on traditional, cultural or religious grounds and laws that exclusively or disproportionately criminalize action or behaviour by women and girls, taking into account the multiple and intersecting forms of discrimination faced by many women and girls;

(d) Give priority to establishing, strengthening and investing in institutions devoted to the advancement of women's rights and gender equality;

(e) Create an enabling, supportive environment for civil society and other stakeholders to combat the backlash against women's human rights and to resist all anti-rights trends and movements with a definitive response grounded in binding human rights obligations, with women's and girls' rights at the centre;

(f) Counter the narratives around gender ideology used by conservative lobbies to misinform societies and undermine the advancement of women's rights and gender equality;

(g) Promote recognition of the fact that cultural, religious and family values are not incompatible with women's and girls' human rights, and recognize the equality of women and girls as a fundamental tenet of international human rights law that must be protected, respected and fulfilled in all States and at all levels of society, including within the family;

(h) Continue promoting and protecting the fundamental principle that all rights are universal, indivisible, interdependent and interrelated;

(i) Ensure respect for women's rights to make decisions about their own bodies and to receive comprehensive sexuality education so they can enjoy their right to sexual and reproductive health, including safe, legal and affordable access to contraception and termination of pregnancy;

(j) Establish parity, including through temporary special measures, to ensure equal representation of women in public, political and economic decision-making and leadership;

(k) Develop strategies to increase women's access to decent work and achieve equal pay;

(l) Ensure social protection floors for care work, which would facilitate the participation of women equally with men in economic and social activities;

(m) Institute measures to combat discriminatory social norms and harmful stereotypes about women's and girls' bodies, roles and capabilities.

91. The Working Group recommends that the Human Rights Council enable it to implement its mandate with the support it requires in terms of resources and cooperation with other entities, including regional mechanisms, national human rights institutions and local women's rights organizations, and assistance to increase its visibility and outreach to grass-roots actors who might not have access to the international system.

92. The Working Group recommends that the United Nations system:

(a) Maintain existing international law guarantees of women's human rights, their right to equality in all fields of life and their right not to be discriminated against, and resist all attempts to derogate from them, including by conservative or religious lobbies;

(b) Reassert the validity of the terminology relating to gender issues and counter its misuse;

(c) Develop an integrated policy framework that reflects the indivisibility of all rights and the interdependency of ending discrimination in all fields of women's life;

(d) Ensure that women human rights defenders and grass-roots organizations have effective protection and proper access to United Nations forums in the context of shrinking space for civil society;

(e) Strengthen cooperation and synergies and identify system breakdowns, and recommend how to overcome them, within the context of the current United Nations reform processes, inviting all concerned entities to participate in a self-questioning and accountability exercise on how to best serve the cause of women's rights;

(f) Continue working towards gender parity at the United Nations and make commitments to mainstream gender a reality;

(g) Ensure that the Working Group can contribute meaningfully to the work of the Commission on the Status of Women, including by institutionalizing the Working Group's formal reporting before the Commission and by participating in the Expert Group Meeting that precedes each Commission session;

(h) Ensure that the special procedures genuinely mainstream women's rights, while recognizing that a growing number of mandate holders have devoted full reports to the situation of women's rights in relation to their mandate;

(i) Further institutionalize communication and collaboration between the Committee on the Elimination of Discrimination against Women and the Working Group, recognizing current efforts to have at least one of their annual sessions overlap, thus enabling more meaningful and systematic exchanges;

(j) Convene a formal, high-level meeting gathering all mechanisms and entities working on women's rights at the international and regional levels to explore further ideas for collaboration and for the effective promotion of women's human rights and the elimination of discrimination against women and girls. Such a meeting could be convened by UN-Women, with the support of OHCHR.

93. **The Working Group recommends that civil society find synergies between the progressive movements defending women's rights and strive to reconcile diverse objectives with a view to advancing common priorities and strategically challenging those fundamentalist actors who oppose gender equality.**

94. **The Working Group recommends that national human rights institutions leverage their unique position in the national human rights machinery and act as a bridge between Members States and international human rights mechanisms.**

Annex

Activities undertaken by the experts as Working Group members since its last report to the Council

1. The Working Group submitted an amicus brief[1] regarding the criminalization of termination of pregnancy in Northern Ireland to the Supreme Court of the United Kingdom, which was presented before the Court on 26 October 2017.

2. On 3 November 2017, the Chair of the Working Group held a discussion with the Committee on the Elimination of Discrimination against Women in a plenary session. She briefed the Committee on the highlights of the Working Group's recent work and emphasized the need to further strengthen cooperation, collaboration and coordination, especially in the context of the backlash against the gains in women's rights. The meeting agreed to further explore ways for effective collaboration, including through the holding of an annual joint session.

3. On the occasion of International Women's Day on 8 March 2018, a member of the Working Group participated in a Facebook Live event on women human rights defenders.

4. Two members of the Working Group attended the sixty-second session of the Commission on the Status of Women. For the first time, the Working Group formally reported to the Commission's general discussion, as newly mandated by the Human Rights Council.[2] The Working Group also addressed the Commission's interactive dialogue on accelerating the implementation of the Beijing Declaration and Platform for Action and achieving concrete results by 2020. The members of the Working Group participated in a number of other events, including a consultation organized by the Victims' Rights Advocate, a "meet and greet" for Working Group members hosted by civil society, an Expert Group Meeting, a side event on violence against women in politics, a consultation on strengthened cooperation between global and regional women's rights mechanisms, and side events on achieving gender parity in United Nations human rights bodies, men's accountability for change, and women's human rights advocacy in a time of backlash. Along with the Special Rapporteur on violence against women, the Chair of the Committee on the Elimination of Discrimination against Women and representatives of regional women's rights mechanisms, the experts also met with the Secretary-General of the United Nations.

5. A member of the Working Group participated in the US Human Rights Network National Convening on Advancing Human Rights, held in December 2017 in Atlanta. She participated in a panel discussion on Gender and Poverty Strategy, in February 2018 at New York University, to discuss the preliminary findings of the Special Rapporteur on extreme poverty and human rights from his country visit to the United States of America. She was part of a joint thematic dialogue on sexual orientation, gender identity and intersex between the Inter-American Commission on Human Rights, the African Commission on Human and Peoples' Rights, and United Nations human rights mechanisms, held in Washington D.C. on 26–28 March 2018. She also participated in a conference on Challenging Criminalization Globally: Inter-disciplinary and intersectional dialogue on un-policing identity, morality, sexuality and bodily autonomy, organized by CREA and Global Health Justice Partnership at Yale University on 17–18 April 2018.

6. A member of the Working Group participated in a regional consultation organized by the Special Rapporteur on the right to development in Addis Ababa on 27 and 28 March 2018 and participated in a regional consultation organized by the African Commission on Human and Peoples' Rights on human rights in conflict situations in Africa held on 5 and 6 April 2018 in Addis Ababa.

[1] See www.ohchr.org/EN/Issues/Women/WGWomen/Pages/AmicusCuriae.aspx.

[2] See Human Rights Council resolution 35/18.

7. A member of the Working Group participated in a briefing on special procedures, with a focus on the mandate of the Working Group, together with the Special Rapporteur on violence against women. The meeting was organized in Zagreb on 12 April 2018.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Samoa

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Working Group on the issue of discrimination against women in law and in practice on its visit to Samoa from 8 to 18 August 2017. In the report, the Working Group reviews the State's legal, policy and institutional frameworks for women's human rights, including the constitutional guarantee of equality between women and men and the important role of family and culture on the enjoyment of women's right to equality. It highlights the urgency of addressing the prevalent gender-based violence against women and girls. The Working Group draws attention to the existence of barriers to the enjoyment of sexual and reproductive health services. It acknowledges the progress made in improving women's participation in political and public life and the ongoing challenges.

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Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Samoa*

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* Circulated in the language of submission only.

I. Introduction

1. The Working Group, led by its Chair-Rapporteur, Kamala Chandrakirana, and with the participation of expert member Eleonora Zielinska, visited Samoa from 8 to 18 August 2017 at the invitation of the Government. The Working Group met with stakeholders in Apia, Poutasi, Vavaau and attended consultations with representatives of Salani, Sapoe, Utulaelae, Siuniu, Salesatele and Salelesi.

2. Samoa was the first country in the Pacific region to receive an official visit by the Working Group. In accordance with its mandate, the Working Group engaged in a constructive dialogue with a wide range of government and State representatives and civil society actors and reviewed efforts on eliminating discrimination against women in law and in practice. The Working Group visited the women's prison, a middle school, a health clinic, observed a planning meeting among village councils and participated in a dialogue with members of a village council.

3. The Working Group deeply appreciates the openness of the Government and its cooperation before and during the visit. The experts wish to express their sincere gratitude to all the interlocutors, including public officials, village members and representatives, health professionals, civil society organizations, women's groups, academics, religious leaders, individual artists, and the United Nations country team for the fruitful exchanges.

II. Context

4. Samoa has a homogeneous population — with tangible differences between urban and rural areas — and a parliamentary democracy in a stable political context. Samoa is known for its pride in its culture and tradition, *Fa'asamoa*, the Samoan way of life. Family and religion occupy a central place in society and everyday life, and are indispensable in addressing the situation of women. Expectations remain high towards women staying in their stereotypical gender roles, as dictated by traditional and cultural norms. In the United Nations Development Programme's Gender Inequality Index, Samoa ranks 97 out of 188.

5. Villages conduct their business with a high-level of autonomy, resulting in a unique challenge for the implementation of national laws and policies.

6. Samoa graduated from the least developed country category in 2014 and was reclassified as a middle-income country. Ranked 104 out of 188 in the human development index and with 18.8 per cent of people living below the national poverty line, the economy of Samoa relies on remittances and foreign aid, mainly for economic infrastructure and essential services. Some 70 per cent of households depend on remittances, which constitute 20 per cent of gross domestic product. In recent years, development assistance has decreased from 17.8 per cent of gross net income in 2013 to 11.4 per cent in 2016.[1] Meanwhile, Samoa faces considerable economic and environmental challenges in a time of major demographic shifts. The growing youth population struggles with limited economic opportunities and outmigration is high. The fact that there are as many Samoans living outside the country as inside poses a perpetual challenge in preventing and managing a brain drain effect on the development of the country.

7. The visit of the Working Group took place at a time of self-reflection in the country, as it confronts challenges on multiple fronts with distinct implications for the situation of women. There is a growing consensus that the country is undergoing a moment of fundamental change. Public debates on the meaning of human rights and the status of women in Samoan society are occurring in multiple spaces on a daily basis. The Government's 2017 Samoa Family Safety Study seems to have shaken the nation as it revealed the pervasiveness of gender-based violence in society and the family. There is a sense of urgency in making the necessary reforms in laws, policies and institutions in order

[1] See www.oecd.org/countries/samoa.

to address these problems, while tensions and contradictions in social, cultural and political practices abound.

III. Legal, institutional and policy frameworks

A. Ratification of human rights treaties and cooperation with human rights mechanisms

8. Samoa was the first country among the Pacific island States to have ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1992; it did so without making any reservations. Since then, it has ratified a further four of the nine core human rights treaties and reinforced its engagement with the international human rights system through the universal periodic review, treaty body reporting and the issuance of a standing invitation in 2011 to special procedure mandate holders for country visits. By issuing a standing invitation, the Government has indicated its openness to accept requests to visit from all thematic special procedure mandate holders, thus demonstrating its commitment to live up to international human rights standards and setting a positive example in the region for cooperation with international human rights mechanisms. The Working Group encourages the Government to continue its constructive engagement by hosting further visits by other mandate holders of key relevance to the country's human rights situation.

9. The ratification of the Convention on the Elimination of All Forms of Discrimination against Women was a significant step by the Government, introducing the concept of equality between women and men. In an effort to comply with its treaty obligations, Samoa has taken a number of legislative, institutional and policy measures since, including the legal protection of maternity and the establishment of the Samoa Law Reform Commission.

10. The Working Group is pleased to learn that the Government has initiated a process of considering the ratification of additional human rights treaties and encourages it to consider the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the International Labour Organization Maternity Protection Convention, 2000 (No. 183).

B. Constitutional framework and non-discrimination

11. The 1962 Constitution indicates that Samoa is a State based on Christian principles and Samoan custom and tradition. A 2017 constitutional amendment made Christianity the State religion.

12. The Constitution provides for the protection of fundamental rights, including freedom from discriminatory legislation whereby all persons are equal before the law (art. 15). Sex is one of the grounds on the basis of which discrimination is prohibited. Furthermore, article 15 contains a clause stating that "nothing in this Article shall … [p]revent the making of any provision for the protection or advancement of women or children or of any socially or educationally retarded class of persons". This opens the door for affirmative action for women. The experts regret, however, that this important provision is formulated in such a way that women are listed with children and "retarded … persons". This may have the effect of further reinforcing the negative stereotypical image of women and undermining their equal status with men.

13. This was the only mention of women in the Constitution before the 2013 constitutional amendment designed to improve women's representation in the national parliament, which requires a minimum 10 per cent of women in the 49-member Legislative Assembly. There is no *expressis verbis* mention of gender equality other than the narrow formulation under freedom from discriminatory legislation. The experts are of the view that further elaboration and inclusion of the concept of women's right to equality and the

definition of discrimination would be necessary, particularly in the context of Samoa where the concept of equality is alien, as the Working Group was told by some interlocutors.

14. A recent amendment to the Village Fono Act 1990 requests village councils to register their by-laws with the national government. There have been cases in which such by-laws have been brought to court for violating constitutional guarantees, particularly in relation to the penalty of banishment and establishment of new churches in the villages and conversions to other denominations outside the village. The Working Group is encouraged that constitutional review of village council by-laws is possible, as it contributes to the rule of law and enhances good governance. Constitutional guarantees of non-discrimination on the grounds of sex should guide the review of village council by-laws and other policies by local and national government.

C. National Policy for Gender Equality 2016–2021

15. Developed on the basis of the review of its first five-year national policy, this policy reaffirms the regional and international commitments of Samoa and its links with its own national development goals. The policy acknowledges the situation of gender inequality and establishes clear priority areas: ending violence against women and children; healthy women and girls; equal economic opportunities for women; increased participation of women in public leadership and decision-making; increased access to education and gender-sensitive education curriculum; enhanced gender equality approaches to community resilience and disaster preparedness; and enhanced institutional mechanisms for the promotion of gender equality. The Working Group welcomes the fact that the policy has both an explicit stand-alone focus on women and a gender mainstreaming goal, which is in line with the approach adopted by the Sustainable Development Goals. However, despite general references to human rights principles, women's right to equality, especially in the family and community, was not explicitly underlined and used as a guiding principle. The policy document could also benefit from further strengthening with additional elaboration of strategies beyond specific activities.

D. Institutional framework

1. Ministry of Women, Community and Social Development

16. The Ministry of Women, Community and Social Development is among the key government agencies for women's empowerment and gender equality, and is responsible for developing national policies on women. It has the authority to manage village welfare, governance and other matters relating to culture and traditions, and is therefore uniquely placed to facilitate the mainstreaming of gender equality and women's rights in village development. The Ministry builds capacities at the village level and works directly with village councils and village women's committees. During the visit, the Working Group observed the impressive leadership and the commendable strategies developed towards gender-responsive village development. Despite its broad mandate, the Ministry operates with limited resources (3 per cent of the national budget). The Working Group endorses an increase in resources for the Ministry so that it can exercise its full potential as an agent of change.

2. Office of the Ombudsman/national human rights institution

17. The Ombudsman has a mandate to monitor, promote and protect human rights under the Ombudsman Act 2013. Although the Ombudsman may not investigate individual complaints relating to human rights violations, he or she has a mandate to investigate widespread, systemic or entrenched situations or practices that violate human rights, including the right to freedom from discrimination, through a national public inquiry with the participation of the general public. Despite limited human and financial resources, the Office of the Ombudsman, as the country's national human rights institution, has made impressive achievements in a short period of time. Its outreach to the marginalized sectors of society, its prioritization of the rights of women and girls and its reporting on difficult

issues of the day play a crucial role in the progressive development of human rights in Samoa.

3. Samoa Law Reform Commission

18. The Samoa Law Reform Commission plays an important role in ensuring the conformity of the country's legal framework with international human rights standards. It conducts public consultations to ensure that there is no disconnect between the policy and legal framework and the realities in the villages. The Working Group welcomes the major work undertaken by the Commission to assess compliance with the Convention on the Elimination of All Forms of Discrimination against Women completed in August 2016, and hopes that it continue to push for further positive changes in legislation through further reviews of the remaining discriminatory legal provisions, including the unequal legal age of marriage for women and men, and the criminalization of sodomy, women in prostitution and voluntary termination of pregnancy, as well as all other aspects of the law that can result in indirect discrimination against women. The Working Group believes that criminalization of behaviour that is attributed only to women is discriminatory per se and generates and perpetuates stigmatization (A/HRC/32/44).

IV. Women's participation in family and cultural life

19. While the legal and policy framework of Samoa opens the way for progress towards equality between men and women, its full implementation will depend on changes in the nation's family and cultural life. The status of women and girls in the family affects their ability to act and participate in other aspects of life, including public and political life and social, economic and cultural life. Full equality between women and men, and girls and boys, is a requirement of international human rights law and constitutes a human right of women that is vital for the well-being of the family and for society as a whole.

20. The Constitution declares custom and tradition, along with Christianity, as the basis of the State. What constitutes the Samoan custom and tradition -- or *Fa'asamoa*, the Samoan way of life — is a topic of vibrant public discussion. The Working Group observed the prevalence of a repeated discourse that aimed to maintain the status quo of inequality between men and women and discrimination against women on the ground of the uniqueness of Samoan culture and tradition. At the same time, the Working Group noted the conviction of many interlocutors that the country was at a moment of change and that culture was evolving. References were made to historical and sociological studies showing the evolution of Samoan culture over centuries, in which cultural practices and traditional institutions had shown themselves to be responsive to emerging challenges and adaptive to new opportunities at different moments in time.

21. Some interlocutors conceded that they were still uneasy speaking out about certain aspects of Samoan tradition for fear of being stigmatized as not being good Samoans or good Christians. Several mentioned that certain issues, such as sexual reproductive health, were just not talked about in Samoa. Consequently, the Working Group was pleased to have directly observed the breaking of long-held taboos with regard to gender-based violence in the family, through facilitated discussions among village community leaders under the auspices of the Ministry of Women, Community and Social Development conducted as part of a pilot project of district-level participatory planning processes for village development. The Working Group considers that this is a good practice that should be adopted nationwide given its potential to open the way for the progressive evolution of the country's customs and traditions. It is in these spaces that the processes of cultural adaptation and change from within occur.

22. There was further indication of change occurring from within. The Working Group met with trainers and counsellors for young persons, who referred to the country's historical origins in presenting alternative cultural narratives, including on women's esteemed role and position in society, which challenged cultural justifications of inequality between men and women. Advocates in schools, civil society organizations and business associations have integrated the ideas of equality between men and women and the

empowerment of women into skills training and service delivery. Many interlocutors have made a point of distinguishing between the core values of the culture versus the individual responsibility of the perpetrators of violence, who opportunistically use culture to justify their acts. They consider a change of mindset as a matter of urgency.

23. The experts were informed that women artists did not feel totally free to express themselves and many chose to go overseas where there was more openness to artwork with messages of social critique. Some interlocutors expressed their regret that the arts as a whole seemed to be undervalued in Samoa. As women's voices are actively and creatively articulated through art, support for women artists and artisans would not only give more space for women's diverse cultural expressions, but also open new avenues for women's economic empowerment.

24. As Samoan customs and traditions are being renegotiated in everyday life by its people, the State is obliged, as stipulated in article 5 of the Convention on the Elimination of All Forms of Discrimination against Women, to modify the social and cultural patterns of the conduct of men and women, with a view to eliminating prejudices and customary practices that are based on the idea of inequality between the sexes or on stereotyped roles for men and women. The Working Group recalls the expert opinion of the Special Rapporteur in the field of cultural rights that the State must guarantee the freedom of women not to participate in traditions, customs and practices that infringe upon their human dignity and rights, to critique existing cultural norms and traditional practices and to create new cultural meanings and norms of behaviour (A/67/287).

25. The family is the fundamental foundation of Samoan society and plays a central role throughout the lifecycle and in all aspects of life. While it serves a social security function, the family is also one of the primary sites of violence against women, as indicated by the findings of various studies, including the Government's national study on family safety. Distinctive roles are assigned to women and men based on their perceived functions in the family: the primary role of a woman is to care for her family while the man is the head of the household. Women have been assuming the role of "good wives" and "good daughters and sisters and mothers", as a matter of course. Their vulnerability to discrimination and violence is defined by their assigned status in the family, where wives who have traditionally moved to their husbands' families are most vulnerable. The concept of family in Samoa includes extended families but not all the various forms of family. Same-sex marriages are forbidden by law.

26. The Working Group acknowledges the claim by several interlocutors that the family could, in effect, be the necessary agent of change. It is the family that bestows the chiefly titles, including on women. As chiefly titles are crucial to social mobility, including the right to run for public office, family decision-making on this matter plays an important role for women's empowerment. While the numbers of women with chiefly titles have increased over the years, the institution of the family remains precarious for women and calls for effective State intervention to promote and protect women's right to equality within the family.

27. Religion, in this case Christianity, is integral to all aspects of Samoan life. It was further enhanced by the 2017 constitutional amendment declaring the country a Christian State. Church leaders are actively engaged in governance and decision-making processes, including at the village level. Regrettably, they have not made good use of their highly influential role by denouncing gender-based violence. During the visit, the Working Group witnessed church leaders defending alleged perpetrators of rape by sending letters of support to the courts testifying to the perpetrators' "good character". The planned collaboration between the National Council of Churches and the Ministry of Women, Community and Social Development on violence against women is a promising first step. The effectiveness and sustainability of this and other like-minded initiatives, including through international cooperation, must be secured.

28. The Working Group recalls that human rights experts and the Secretary-General have established that neither cultural diversity nor freedom of religion can justify discrimination against women, including gender-based violence. Discriminatory, repressive and violent practices against women should be eliminated, whatever their origins, including

those founded in culture or religion (A/HRC/29/40). In the light of this, the experts emphasize that the protection and advancement of actors and spaces presenting alternative narratives and renegotiating long-held values in cultural and religious life is a matter of State obligation.

V. Gender-based violence, access to justice and women victims of multiple discrimination

29. Samoa has made significant progress in recent years in addressing family violence, particularly on the legislative front. The Family Violence Act 2013 covers violence within the family, the definition of which includes a broad range of family relationships. The definition of violence encompasses physical, sexual, emotional, verbal and psychological dimensions. Economic violence is regrettably not included. The Crimes Act 2013 criminalized marital rape. However, no comprehensive legislation on gender-based violence against women beyond the family has been developed and initiatives to combat gender-based violence remain scattered, in part due to limited resources and a lack of a sustainable and comprehensive national strategy. The Working Group hopes that the Safety for All strategy, under elaboration for four years, will embrace a genuine holistic approach involving all the relevant stakeholders. Strong political support at the highest level of the Government and international cooperation are indispensable for Samoa to succeed in combating gender-based violence.

A. Gender-based violence

30. There is a growing knowledge and acknowledgment of the extent of violence experienced by women and girls — described by many as epidemic — and of the impact on women, the family, the community and society. Numerous research and surveys have been conducted by national, regional and international stakeholders, including State and academic institutions. There have been broad public consultations, documentary films and frequent media reporting of cases, including several during the Working Group's visit. These studies have focused primarily on domestic violence, a subject traditionally treated as taboo and often considered as a private matter to be dealt with in the family.

31. The Working Group notes that gender-based violence against women and girls is a manifestation of discrimination against women and occurs in all spaces and spheres of human interactions, including in the contexts of the family, the community, public spaces, the workplace, leisure, politics, sport, health services and educational settings and digital environments.[2] This recognition is important in order to develop adequate strategies addressing the root causes of the problem and challenging cultural and social norms. The Committee on the Elimination of Discrimination against Women uses the term "gender-based violence against women", as it makes explicit the gendered causes and impacts of the violence and further strengthens the understanding of the violence as a social rather than an individual problem, requiring a comprehensive response, beyond those to specific events, individual perpetrators and victims/survivors. The experts believe that framing violence against women only as family violence neglects other spheres of women's life and the gendered causes and impacts of violence.

32. The 2017 Family Safety Study unveiled distressing data on the reality of gender-based violence in the country, showing an alarming increase in the number of women who have experienced violence at the hands of their family members and the normalization of violence in society. The study showed that 60 per cent of women between the ages of 20 and 49 who were in a relationship had experienced some form of spousal abuse in their lifetime, notwithstanding the significant underreporting acknowledged by many stakeholders.

[2] Committee on the Elimination of Discrimination against Women, general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19.

33 The Working Group is pleased to note a certain national momentum on tackling the issue. The national human rights institution has chosen to launch its first national public inquiry on family violence, with a focus on girls and women. The Working Group welcomes this focus, as women are disparately affected by family violence and are the overwhelming majority of the victims, as shown in the cases before the Family Court. The inquiry process involving broad consultations is well under way and the final inquiry report is expected to be presented to the Legislative Assembly in June 2018. Importantly, the inquiry adopts an explicit human rights-based approach and includes a review of existing structures and institutions with the potential to contribute to identifying solutions for curbing family violence. According to the Ombudsman, violence in Samoan families is a serious problem, which touches the lives of many and may even be fortified by attitudes embedded in the country's traditional communal society.

34. Alcohol consumption has been identified as one of the major causes of violence and problems; often linked to precarious socioeconomic conditions, it brings to light the need to tackle the many different root causes of violence against women and to seriously address the structural challenges linked to it, such as poverty, economic opportunities and demographics. At the same time, interlocutors pointed out that violence against women on such a scale demonstrates a power relationship and domination that cannot be explained only by alcohol consumption.

35. Notwithstanding the numerous studies conducted, the Working Group regrets that less is known about the gender-based violence that *fa'afafine*, *fa'afatama*[3] and lesbians face and emphasizes the importance for their voices to be heard and their situations addressed on the basis of the right to equality and non-discrimination. There is also a lack of adequate attention paid to violence against girls. The Working Group hopes that the report of the public inquiry will shed light on these understudied areas.

36. During exchanges with various stakeholders, the experts observed a degree of acceptance of violence, including by women. Some women say that they "deserve" corporal punishment, indicating a high level of self-blaming, even in cases of sexual abuse and incest. Others also lamented the negative role played by television programmes, which reinforce stereotypes and harmful practices instead of changing mindsets in a positive manner. Indeed, the public consultations conducted by the Samoa Law Reform Commission illustrated the perception of Samoan culture being incompatible with the Convention. Many Samoans believe that *Fa'asamoa* allows husbands to beat their wives in certain circumstances[4] and that human rights are foreign impositions. This mindset poses serious challenges for combating gender-based violence.

37. The Working Group hopes that religious leaders will use their influential role in society to be more proactive in preventing violence against women and that their interventions are guided by human rights principles, including respect for women's right to equality and dignity and in recognition of their autonomy and agency.

38. The experts regret to hear that corporal punishment against children is often justified as being part of the Samoan culture. Men who were victims of violence as children are believed to be more likely to reproduce this violence as adults, perpetuating a vicious circle of violence. Some key actors in the country are trying to combat the belief that resorting to violence is conducive to a good education for children. Culture cannot serve as a justification to tolerate or accept any form of violence against children anywhere, including in families and schools; it has a detrimental impact on their health and development. Many repeatedly insisted on the need to deconstruct some unfounded myths around culture and emphasized the essential protective and nurturing elements of culture with regard to educating children.

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[3] The terms *fa'afafine* and *fa'afatama* are culturally unique and specific to the third gender of Samoa. They are a social and communal gender-fluid-based status given to effeminate males and butch females within the Samoan cultural context.

[4] Samoa Law Reform Commission, "Samoa's legislative compliance with the Convention on the Elimination of All Forms of Discrimination against Women, Final Report (17/16), August 2016".

39. Sexual violence is widely recognized as a serious social problem. The official data commonly referred to point to the two most common types of sexual offences reported for the period between 2008 and 2015: indecent assault (34 per cent) and rape (26 per cent), followed by attempted rape (11 per cent), sexual intercourse with a girl over 12 years but under 16 years (9 per cent) and incest (7 per cent),[5] although it is unclear what the total numbers were. The Committee on the Rights of the Child expressed concern at the reportedly high level of sexual abuse, including sexual harassment by teachers in schools and incest, and the significant underreporting due to fear of stigmatization (CRC/C/WSM/CO/2-4).

40. Legislative progress, such as the increase in penalties for sexual offences and the central place of consent in determining whether a rape has taken place under the Crimes Act 2013, will not significantly change the situation without changes in social and cultural practices, such as testimony in court regarding the perpetrator's good character by church leaders. The Working Group also observed blame being apportioned by the country's top leadership to the media and the police for reporting cases of rape and incest, considered detrimental to the country's image. The Working Group is pleased to learn of the adoption, in December 2017, of the Sex Offenders Registration Act 2017.

B. Access to justice

41. The Constitution of Samoa guarantees equality before the law. However, in practice, women, particularly those living in villages, face multiple barriers, structural, social and cultural, in their access to justice. Consultations conducted by the Samoa Law Reform Commission revealed that women's own perceptions and mindsets and the general lack of awareness of the law often prevent them from seeking access to protection. In the sociocultural context of Samoa, it is difficult for women victims of family violence to seek external assistance due to practical constraints, including the lack of alternative arrangements and financial and material means.

42. Women victims of domestic violence face a range of actors who may have a role to play. First, family members or *Matai*, who may not report offenders to the village council and keep the matter within the family. The village council has a role to play in the conciliation mechanism under the Crimes Act 2013. However, village councils are dominated by men, among whom are sometimes the perpetrators. There is usually a practice to keep problems in the village, including violence and sexual assault, before involving the police.

43. The Samoan Police Force numbers just 649 officers; it has a limited presence in rural areas. Its Domestic Violence Unit has received specialized training, although continuous training is required due to staff turnover. It needs to be better resourced, including better facilities, to allow confidential reporting by victims. There has been an increase in the number of cases reported: the number of protection orders rose from 100 in the period between 2014 and 2015 to 213 for the period between 2015 and 2016.[6] The Working Group was not able to obtain data on the number of prosecutions or gender-based killings or the length of the sentences handed down for those found guilty.

44. Currently, there is only one non-governmental organization (NGO) that provides a range of essential services, including: shelters for children and newborns who have been abandoned as a result of rape and incest and for pregnant women who are victims of sexual abuse, as well as counselling on anger management for the perpetrators. It has representatives in the villages, often church pastors and their wives, who are usually the first to intervene. The NGO runs a free helpline. This system is helpful for women in the villages who often cannot afford to travel to the capital to seek assistance. Both the police and the court make referrals to the NGO. However, the capacity of the NGO is tested in the face of the enormous demands as is its reliance on donations and project funding.

[5] Ibid.

[6] Data provided to the Working Group during the visit.

45. The Family Court is required by law to promote conciliation and alternative dispute resolution and therefore takes into account participation in the counselling programme offered by the NGO in its sentencing. In this regard, the Working Group reiterates the recommendation to States of the Committee on the Elimination of Discrimination against Women to ensure that cases of violence against women, including domestic violence, are under no circumstances referred to any alternative dispute resolution procedure, since such processes may lead to further violations of women's rights and impunity for perpetrators because they often operate on the basis of patriarchal values, thereby having a negative impact on women's access to judicial review and remedies (see CEDAW/C/GC/33, para. 57).

46. Numerous State entities, civil society organizations, academics and individuals have been taking leadership roles in combating gender-based violence. For instance, in some villages, domestic violence against women is not tolerated and police are called, although often only in severe cases, usually when men become very violent.

47. It is critically important to develop a social network and security system to ensure a continuous chain of protection from prevention strategies, accessible reporting mechanisms, temporary shelters, legal remedies and rehabilitation services, psychosocial services for women victims of violence during and after court proceedings, accompanied by the necessary resources, without which the protection chain would be broken and any effort would be in vain. Sustainable government funding is crucial.

48. The experts commend the adoption of the Community Law Centre Act 2015. For citizens who are seeking legal assistance, including women in the villages, such a centre would greatly facilitate their access to justice, since it would play the role of a public advocate and serve as a one-stop reference point, providing services much needed by women who often do not know where to go for help. However, the experts are concerned that the law has not been implemented due to the Cabinet's other priorities and strongly encourage its immediate implementation.

49. The experts welcome the role of the Maintenance and Affiliation Section of the Ministry of Justice and Court Administration with regard to enforcing court orders for maintenance by legally representing entitled women. The Working Group learned that, to date, 800 such cases had been taken up.

C. Women victims of multiple discrimination

1. Women with disabilities

50. Women with disabilities face multiple barriers. Fear of mistreatment and domestic violence and difficulties in providing the services expected of a wife have sometimes made families reluctant to allow their daughters with disabilities to get married. They encounter more difficulties in dealing with emotional and physical violence at home, as reporting violence is hardly an option, due to the lack of alternative support services. In a village, a pastor's home often serves as a temporary place of safety. Their ability to speak in front of the village council is further reduced due to the prevailing attitude towards people with disabilities.

51. The Working Group was pleased to learn that a woman with a disability was given a chiefly title for the first time in 2015 and that there were numerous projects under way and efforts being made by the Ministry of Women, Community and Social Development to provide employment opportunities. The national policy on persons with disabilities has undergone two rounds of consultations, with attention reportedly being paid to women with disabilities.

2. Women in prostitution

52. Prostitution is criminalized in Samoa, including those engaging in prostitution and those living on another person's earnings from prostitution. This may put women who engage in prostitution and their families at risk. The criminalization of women working in prostitution or engaging in sex work forces them into situations of injustice, vulnerability

and stigmatization and is contrary to international human rights law. The Working Group notes that the Committee on the Elimination of Discrimination against Women calls for the prohibition of the exploitation of prostitution and not for the punishment of women engaged in prostitution/sex work themselves. Women should not be criminalized for prostitution (A/HRC/32/44).

3. Women deprived of liberty

53. While free legal aid is to be made available to all, it seems that, in cases of women offenders, the quality thereof is not optimal. There is a high rate of women imprisoned on charges of "theft as a servant" (about 70 per cent). The experts note that the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) call for alternatives to detention, in particular in relation to pregnant women and women with children. Furthermore, detainees with a mental illness should not be kept in prison in a locked room. They should receive specialized care.

VI. Right and access to health services

54. Samoa has developed several strategies on improving the health conditions of women, including a Health Sector Plan 2008–2018, focusing, inter alia, on rapidly increasing levels of non-communicable diseases, reproductive and child health, emerging and re-emerging infectious diseases and disability. The Government has developed a policy to improve family planning in the country, the National Sexual and Reproductive Health Policy 2011–2016.

55. Some villages have tried addressing chronic health issues, such as obesity, diabetes and high blood pressure, with preventive measures, such as the development of vegetable gardens in each household to ensure healthier food and reduce reliance on costly imported goods. The Ministry of Women, Community and Social Development is working with the Ministry of Health to revitalize the community health model, through supporting the role of the women's committees. This effort will have an impact on the ability of rural women to gain access to information and services, including for sexual and reproductive health.

56. The Working Group learned about the generally limited resources of health-care providers, the severe lack of doctors and the issue of pharmacies running short of supplies. The district health centre that the Working Group visited, for instance, provides services to some 18,000 people, receives one weekly visit by a doctor and has 15 nurses with limited tools, infrastructure and medicines to respond to the high demand. The Working Group observed with appreciation the efforts deployed to conduct immunization campaigns, ensure antenatal care and propose certain homecare services to the elderly and people with disabilities at reduced costs. Many regretted, however, the limited accessibility of such centres, leading some, including women, to resort to inappropriate treatments in the villages.

57. Furthermore, there seems to be limited State responses to the specific needs of women with disabilities who face multiple forms of discrimination and mental health issues. The experts learned that Samoa did not seem to have mental health professionals. Some stakeholders raised concerns about the high rates of suicide, which deserve adequate responses.

58. The Working Group learned that antenatal care programmes were available in district health centres for 10 tala and that some women in the villages were trained to act as midwives in order to find community-based solutions to the general lack of health providers. Medicines and any other type of treatment have to be paid separately. According to the health professionals that the Working Group met, contraceptives were provided for 5 tala, as long as the husband had consented after filling in a form. Minor girls have to be accompanied by an adult. Emergency contraception can be provided on prescription. The experts reiterate that the requirement of third-party consent deters women from accessing information and services for family planning and that emergency contraceptives should be available over the counter (A/HRC/32/44).

59. Modern contraceptive prevalence remains low in Samoa, which has the highest unmet contraception need among women aged between 15 and 49 in the Pacific region at 45.6 per cent[7] and the highest fertility rate, estimated at 5.1.[8] This represents a major challenge for the country's development, with large families placing a considerable burden on households.

60. The Working Group is concerned at the increased prevalence of sexually transmitted infections. Despite efforts to make condoms more available, the Working Group learned of particular challenges young people face in accessing them, including active resistance. When condom dispensers were installed in the toilets at the National University of Samoa, the Catholic Church expressed grave concern and shortly thereafter the dispensers disappeared.[9] The National HIV, AIDS, and Sexually Transmitted Infections Policy 2017–2022 — which recognizes gender equality as indispensable in addressing sexual health and sexually transmitted infections, including women and girls' vulnerability to HIV infection in the various social, cultural and economic environments — should be duly implemented with the necessary actions and resources in order to combat this acute public health issue. The free testing for HIV in hospitals should be ensured with adequate supplies.

61. The Working Group also strongly encourages support for initiatives such as the Youth Friendly Drop-in Centre, which provides counselling services and contraceptives. Given the high rates of teenage pregnancies particularly in rural areas and the proliferation of sexually transmitted infections, such services would be optimal if they could also be provided in rural areas and free from the requirement of parental consent. Rural teenagers are more likely to experience pregnancy than their urban counterparts, and there is a considerable weighting towards teenage pregnancy within the lower socioeconomic strata.[10]

62. The experts share the regrets expressed by some interlocutors regarding the criminalization of voluntary termination of pregnancy, which, despite the progressive 2013 reform of the law, is still only permitted when the health or the life of the woman is at risk. Any person procuring a miscarriage, woman — including victims of rape and incest — procuring her own miscarriage or person who supplies any drug, noxious thing or instrument intended for unlawfully procuring a miscarriage is guilty of an offence and liable to imprisonment for up to seven years under the Crimes Act 2013.

63. Some interlocutors affirmed that unsafe termination of pregnancy does take place through the use of hazardous practices endangering the health and life of women and girls. This phenomenon needs to be better understood and documented. Some interlocutors called for a wake-up call, considering it intolerable that girls as young as 10 years, who had become pregnant as a result of rape, had to carry their pregnancies to term, at great risk to their health and life.

64. An NGO plays a key role in sexual and reproductive health, filling the gap due to the limited capacities of the nation's health services. It provides family planning, prevention (including testing for sexually transmitted infections) and counselling services and assists the State with sexuality education in schools. It reaches some villages regularly, through mobile nurses, conducts preventive actions and provides contraceptives for minimal costs (or for free when women cannot pay). The experts strongly suggest that such initiatives be adequately and sustainably supported to reduce their dependency on donor assistance.

65. Furthermore, it is important that the authorities at the highest level honour the country's international commitments and human rights obligations under the International Conference on Population and Development and the Convention on the Elimination of All Forms of Discrimination against Women by giving resounding and public support to the

[7] United Nations Population Fund Pacific Sub-Regional Office, *Samoa: Sexual and Reproductive Health Rights Needs Assessment April 2015* (Suva, 2015).

[8] Samoa Demographic and Health Survey 2014.

[9] Ramona Boodoosingh, "Violence against women in developing countries: policy and services in Samoa and Fiji", PhD dissertation, Centre for Samoan Studies, National University of Samoa, 2016.

[10] See http://asiapacific.unwomen.org/en/countries/fiji/co/samoa.

sexual and reproductive health agenda and refraining from sending messages undermining family planning.

VII. Women's participation in economic and social life

A. Women in the labour force

66. Women play a key role in the social and economic life of Samoa and represent a valuable asset for sustainable development. They are on the frontline dealing with issues of health, education, food security, access to and quality of the water supply and disaster relief management in villages, through women's committees. However, access to job opportunities is largely limited to the urban area. Women's unemployment (20 per cent) is higher than men's (14 per cent).[11] Overall, women's labour force participation (at 26.3 per cent) is considerably lower than that of men (at 44.1 per cent). Some 66.3 per cent of employed women work in the informal sector,[12] thus falling outside the reach of social security benefits, which are only available in the formal sector. The Working Group was informed of the Government's effort to identify areas for employment and entrepreneurship at the village level with foreign assistance.

67. Women head more than 60 per cent of small businesses. Women business leaders have played a central role in making the Samoa Chamber of Commerce an inclusive model catering for small farmers and businesses, as much as for large corporations, and ensuring that women have a strong presence both on the staff and the board. The Chamber runs various initiatives for further exploring the potential for economic empowerment, in which there is strong participation by young women, including from the village. The Working Group was pleased to note that the National Financial Inclusion Strategy for Samoa 2017–2020 has an explicit overarching goal focusing on women: of an additional 40,000 adults with improved access to formal financial services, at least 50 per cent will be women, and at least 50 per cent will be from rural areas.

68. In the absence of a State-sponsored social welfare system, this function has been assumed by individual families, including those living abroad. The experts were informed that the Government is laying the foundations for such a system, by establishing citizen identification cards and improving birth registration through an e-health system that registers births at hospital. A social welfare system would go a long way in providing minimum guarantees by the State and help relieve the burden on families.

B. Maternity, paternity and parental leave

69. Public and private sector employees do not enjoy the same maternity cover. Samoa extended entitlements for maternity leave in the public sector in 2015 under the Public Service Commission's Working Conditions and Entitlements Policy, to 26 weeks, of which 12 with full pay and 14 without pay, thus meeting the minimal international standards. However, in the private sector, which falls under the Labour and Employment Relations Act 2013, women can have only four weeks with full pay. For both sectors, paternal leave is only five days with full pay, while parental leave has not been introduced. The Working Group believes that paid parental leave, introduced by an increasing number of countries, facilitates the sharing of responsibility for care within a household and helps overcome stereotypes and barriers to men sharing childcare functions and their need to reconcile work and family life (A/HRC/26/39).

70. The Labour and Employment Relations Act 2013 contains comprehensive provisions prohibiting direct or indirect discrimination on the basis of gender, sex, sexual orientation, marital status, pregnancy and family responsibilities. Furthermore, men and women are required to be paid the same for the same work and equal remuneration for

[11] International Labour Organization, *Samoa — Labour Force Survey 2012*.

[12] Samoa Bureau of Statistics, *Samoa: 2012 Labour Force Survey*.

work of equal value. The Public Service Act 2004, which governs the public sector, on the other hand, contains no specific mention of women or gender equality, other than a general clause in article 18 (g) on equal employment opportunities in public services. The national human rights institution has recommended appropriate amendments to the Act to require consideration of gender equality in all public service recruitment.

C. Education

71. Samoa has high literacy rate for both women (98.8 per cent) and men (99.1 per cent) in the Samoan language. Girls are more successful at school, with fewer girls dropping out than boys at the secondary level. Female students receive 60 per cent of Government scholarships due to their better performance. [13] Whenever women have been given opportunities, they have excelled. Merit-based education opportunities have played a significant role in the advancement of women in all aspects of life. However, the near absence of vocational schools undermines opportunities for employment prospects.

72. Education plays an important role in breaking the cycle of violence in society and in changing mindsets. The educational content must be based on universal human rights principles and the concept of gender equality. Human rights education forms part of the right to education. Translating into Samoan child-friendly materials relating to the Convention on the Rights of the Child that already exist in English would be a useful first step.

73. The sad reality of the rate of teenage pregnancy (9 per cent) is a reminder of the urgent need to ensure that boys and girls receive comprehensive scientific-based sexuality education at school. The experts learned that, despite repeated training of teachers through joint efforts by the leading NGO and the ministries of education and health, teachers are not at ease when teaching the subject and that sexuality education is less than comprehensive, taught in the physical education classes and does not reach all schools. The educational system promotes abstinence and stigmatizes premarital sex, making it exceedingly difficult for unmarried persons and/or adolescents to access contraceptives.[14] Schools should be a safe place to teach sensitive but important subjects. In the face of rising sexually transmitted diseases and teenage pregnancies, silence is a denial of responsibility. The experts hope that the current review of school curricula will address this issue in line with the country's international human rights obligations.

74. The Working Group is concerned that pregnant teenagers are often pulled out of schools by their parents or expelled by school principals. A recent policy of the Ministry of Education, the National Safe Schools Policy, guarantees the right to education of pregnant girls. At the time of the visit, it appeared that the policy was not known at the school level. Additionally, this policy contains no further references to girls. Given the prevalence of sexual violence, its absence in such an important policy is a missed opportunity.

VIII. Women's participation in political and public life

75. Women's participation in political and public life at the national and village levels is distinct yet interrelated, a complex picture of evolving achievements and persistent barriers. Progress in this field moves gradually as women excel in their studies and professions, and as more families bestow chiefly titles on women, thereby opening new doors for career development and giving entitlement to run for the Legislative Assembly.

76. The institutions most open to professional women are in the public service sector, in which women constitute over half of its workforce and are well represented in leadership positions, including as the chief executive officers of ministries. The latest data show that

[13] Government of Samoa, *Samoa Demographic and Health Survey 2014* (Apia, June 2015).

[14] Boodoosingh, "Violence against women in developing countries".

of the 18 chief executive officers, 8 were women in the period between 2015 and 2016, an improvement from 6 women out of 19 between 2009 and 2010.[15]

77. Women first entered the judiciary as judges in 2011. Today, 7 out of a total of 26 judges are women, including 2 out of 6 judges in the Supreme Court. Of the 649 police officers, 23 per cent are female, including 8 in high-ranking positions.[16]

78. However, there are only 2 women out of 13 ministers, including a first woman Deputy Prime Minister. In the diplomatic service, Samoa has had only one women ambassador during the past two decades. At the time of the visit, there were two women heads of missions among a total of six. Cabinet ministers are nominated by the Prime Minister, who also appoints ambassadors. The Working Group learned that a policy on the selection of ambassadors had been presented to the Prime Minister with a view to ensuring a transparent appointment process. A strong political will is essential to raise the representation of women at the highest level of the executive and diplomatic service, especially in a context in which there are many competent women serving in the public service.

79. The experts observed first-hand the competence and commitment of women in leadership positions. Educational opportunities, such as merit-based overseas scholarships, have been a key factor for women's success, especially for young women in the villages. This has been a good practice for the advancement of women in Samoa.

80. Samoa continues to lag behind in women's political participation, ranking 161 out of 190 countries. The 10 per cent quota is a major but insufficient first step forward for women's meaningful participation, which requires a minimum of 30 per cent representation according to international standards. Nevertheless, women see the 10 per cent quota as sending a clear message that the Legislative Assembly is not an exclusive men's club and that there is now a place for women in the nation's legislative body. The quota system had an immediate impact: in the 2016 elections there was a record 24 woman candidates and a new (the fifth) woman entered the Assembly thanks to the Act. Though every woman in the country is now entitled to vote, the political system still reserves the right to enter the Assembly for citizens holding chiefly titles, which remains a male privilege, since only 11 per cent of title holders nationwide are women, of which a significant number live abroad. For those women who did run in the 2016 elections, they faced deeply entrenched political machinery and processes that have served male candidates well over decades, as well as corruption and a lack of influence in village governance.

81. Unequal opportunities for women remains a structural impediment for women's full and meaningful participation at the highest level of the political institutions. The experts learned that a mentoring initiative for young women by senior women politicians has been set up and recognize this as a promising practice in the empowerment of individual women. Further policy measures in support of women's political representation remain necessary.

82. Policymaking and implementation in Samoa involves extensive stakeholder consultations, particularly given the deep-seated autonomy of its self-governing villages and the extensive role of the church in all aspects of community life. The Ministry of Women, Community and Social Development has initiated a district-wide development planning process in which four or five villages collaborate in identifying issues and concerns, including consultations with representatives of village women, young persons and persons with disabilities. The experts observed this planning process and were impressed by the quality of the debates among the stakeholders and the facilitation by the Ministry. The Working Group supports the scaling-up of this pilot project to the whole country as it has the potential to change minds while breaking the isolation of villages in their decision-making.

83. At the village level, women's participation in political and public decision-making is complex and mainly indirect. Village governance is centred on the village council, the members of which are villagers (predominantly male) with chiefly titles bestowed on them

[15] Data provided by the Government during the visit.

[16] Ibid.

by their extended families. Among village-based chiefs, only 5.5 per cent are women. Reports indicate that 19 villages ban women outright from village council meetings.[17] The reasons cited for excluding women have to do with communication practices among male chiefs and dress codes during the meetings, which would make women uncomfortable. The Working Group has been told that changing this practice is a gradual process that can only begin in the family, i.e. through the giving of chiefly titles to women. However, despite the increasing number of women with chiefly titles over the years, few participate actively in the village council meetings.

84. The Working Group was pleased to note that the Strategy for the Development of Samoa 2016/17–2019/20 contains a key outcome on social institutions, which aims at strengthening village governance so as to achieve greater participation of individuals in planning and implementation of village by-laws, with a specific focus on increasing the participation of women in the development and governance of communities.

85. However, even where women's committees are active in the community they do not have any formal authority in village matters. Women may be leaders among women, but they have little direct voice in village government.[18] Women's input into village council decision-making is mainly carried out in an indirect manner through women's committees, which have specialized responsibilities, for example for village and home hygiene, maintenance of natural water sources, harmony in the community, preschooling and recreational activities. Women's committees have female representatives who are paid by the Government, as are male village representatives. Although recommendations have been made to equalize their salaries, women are paid half as much as men. Women's committees are often the first responders to cases of domestic violence in the village and only in special circumstances do they bring these cases to the attention of the village councils.

86. The participation of urban professional women in village councils contributes to changes in mindsets. However, they need to be supported in order for them to reconcile participation in village life with the demands of their professional life. Government policy that allows flexible working arrangements would facilitate their participation in village governance.

87. With adequate resources and support, civil society organizations could do more with an independent voice. The Working Group learned that civil society organizations working on women's issues are poorly resourced and that the centrally managed sector programme provided funding to only a few organizations. Some interlocutors expressed their disappointment at the programme's lack of transparency.

IX. Conclusions and recommendations

A. Conclusions

88. **Samoa has made important strides in developing a legal framework that abides by its own Constitution and complies with its international human rights obligations, particularly, over the past decade, with regard to the elimination of discrimination against women. The criminalization of domestic violence, the legal guarantee of equality between men and women in employment and the constitutional amendment to ensure 10 per cent of women in the Legislative Assembly are important milestones. Samoa is fortunate to have committed and effective individuals in strategically placed institutions as important assets in implementation and further advancement.**

89. **However, successful implementation of these laws and the full enjoyment of human rights by all Samoan women require a comprehensive approach that would**

[17] Leassolagi Malama Meleisea and others, "Political representation and women's empowerment in Samoa, volume I: findings and recommendations" (Apia, Centre for Samoan Studies, National University of Samoa, July 2015).

[18] Penelope Schoeffel, "Revitalization of Samoa's village women's committee for health promotion", Centre for Samoan Studies, National University of Samoa, March 2016.

include the development of adequate social and economic policies in order to address the root causes of discrimination against women, including gender-based violence. The extensive and multiple efforts by various institutions to document the incidence of violence against women, including in the context of family health and safety, is but the beginning of a long journey of understanding and response.

90. Ensuring the sexual and reproductive health and economic empowerment of women are prerequisites for an effective and lasting impact of the country's legislation on violence against women. Provision of a State-sponsored social welfare system that could reduce the burden of individual families is a long-term but crucial step. Psychosocial support for the rehabilitation of women and girls who are victims of violence, including sexual violence, is a necessary complement to the criminalization of acts of violence against them. Civil society has contributed immensely to service delivery for women and girls in need, but their resource base is small and precarious. Without sustainable financing, from the State and the private sector and through international cooperation, these services can only benefit a small minority of women and girls in need.

91. One of the most important steps in addressing the root causes of violence against women involves creating a change in mindsets regarding cultural perceptions about women and their place in society. Significant efforts have already been made on this front but major progress is necessary. Open dialogue on matters deemed taboo and alternative narratives on the meaning of the "Samoan way" need to occur on a massive scale. This cannot happen without the leadership of the Government and community and religious leaders, alongside women and men at all levels of society, titled and untitled. Samoa needs champions for change. The stakes are high for ensuring sustainable development and building resilience as a nation. The full and equal participation of women and men in traditional rural communities, as well as in the growing urban area, is crucial.

B. Recommendations

92. The Working Group commends Samoa for having undertaken numerous public consultations and studies to comply with its human rights obligations. It recommends that the Government incorporate, as a matter of priority, the key relevant recommendations from these processes in its legislation and policies, and allocate adequate resources for their implementation.

1. Legal, policy and institutional frameworks

93. The Working Group recommends that the Government:

(a) Continue its cooperation with international human rights mechanisms, including by ratifying core human rights treaties and inviting visits by special procedure mandate holders;

(b) Review legal and policy documents with a view to repealing the remaining discriminatory provisions and ensuring that women occupy an explicit and central place and are not simply treated as another vulnerable group;

(c) Incorporate further the definition of discrimination and the concept of gender equality in its legal instruments;

(d) Review village by-laws within the framework of the constitutional guarantee of non-discrimination;

(e) Develop comprehensive legislation on gender-based violence against women;

(f) Prioritize the allocation of human and financial resources to institutions that play a key role in women's rights, particularly the Ministry of Women, Community and Social Development and the national human rights institution.

2. Family and cultural life

94. **The Working Group recommends that the Government:**

(a) **Undertake a massive campaign to raise awareness of the universality of human rights and women's right to equality throughout the country, aimed at changing mindsets;**

(b) **Scale up efforts from within society that have an effect on cultural adaptation, such as the pilot district planning exercise led by the Ministry of Women, Community and Social Development;**

(c) **Develop mechanisms, including by the national human rights institution, to protect those who challenge customs, traditions and beliefs that undermine human rights, including in relation to acts of reprisal;**

(d) **Support women artists and artisans as a means to increase space for women's cultural expression and economic empowerment;**

(e) **Encourage church leaders to play an active role in combating gender-based violence including through joint initiatives.**

3. Gender-based violence

95. **The Working Group recommends that the Government:**

(a) **Develop a comprehensive strategy on gender-based violence, in line with the Committee on the Elimination of Discrimination against Women's general recommendation No. 35 (2017), which encompasses measures in all fields, including at the executive, judicial and legislative levels and the regular collection, analysis and publication of data from the justice, social and health sectors, as well as effective cooperation among institutions involved in prevention, protection and remedies;**

(b) **Ensure that studies and policies on gender-based violence include population groups facing multiple forms of discrimination;**

(c) **Work with church leaders to facilitate their positive contribution to combat gender-based violence given their influential role;**

(d) **Ensure the independent functioning of the courts by stopping the practice of testifying to the morality or good character of the perpetrator of violence against women by the moral authorities of the community, as such a practice unavoidably shifts the blame onto the women victim;**

(e) **Strengthen the Police's Domestic Violence Unit, including through continuous training, and establish an effective system for data collection;**

(f) **Review alternative dispute resolution arrangements with a view to ensuring respect for women's rights and access to justice;**

(g) **Implement, without delay, the Community Law Centre Act 2015;**

(h) **Review and revise the Crimes Act 2013, with a view to ensuring that women in prostitution are not criminalized;**

(i) **Train judges and prison officials on the Bangkok Rules and review sentencing policy according to those Rules.**

4. Health

96. **The Working Group recommends that the Government:**

(a) **Improve access to health care, particularly for women in rural areas;**

(b) **Invest in comprehensive prevention strategies, including data collection and monitoring of women's health issues, such as the prevalence of breast and cervical cancers;**

(c) Prioritize the health needs of women with disabilities, and develop the in-country professional capacity for mental health;

(d) Ensure that modern contraceptives are accessible, affordable and available without a requirement for third-party consent, and discontinue the use of criminal law to punish a woman for ending her pregnancy;

(e) Allow abortion for pregnant teenagers, as an equality measure to enable girls to complete their school education, and also as a health measure to protect their safety and life;

(f) Demonstrate support at all levels, including for civil society organizations, to break the taboo on sexual and reproductive health and rights.

5. Economic and social life

97. **The Working Group recommends that the Government:**

(a) Establish a countrywide State-sponsored social welfare system to provide social protection guarantees to all, including those working in the informal sector and those living in rural areas;

(b) Ensure equal legal protection of maternity leave for all women, increase paternity leave and introduce parental leave with a view to facilitating the sharing of care responsibilities and overcoming stereotypes;

(c) Review the Public Service Act 2004 to expand the provision on the prohibition of direct and indirect discrimination and the right to equality;

(d) Provide age-appropriate, comprehensive and inclusive sexuality education based on scientific evidence and human rights, for girls and boys before entering puberty, as part of mandatory school programmes, and ensure that sexuality education pays particular attention to gender equality, sexuality, relationships, gender identity, including non-conforming gender identities, responsible parenthood and sexual behaviour to prevent early pregnancies and sexually transmitted infections;

(e) Include specific provisions for the protection of girls against sexual violence in schools in the National Safe School Policy and ensure countrywide dissemination and implementation of the policy with an effective monitoring mechanism in place.

6. Public and political life

98. **The Working Group recommends that the Government:**

(a) Improve women's representation in the Cabinet and in diplomatic services through the adoption of affirmative action measures and transparent processes;

(b) Consider further measures for increasing women's representation in the Legislative Assembly, including by revising the quota system in accordance with international standards and supporting women candidates;

(c) Expand the Ministry of Women, Community and Social Development's pilot district planning initiative with a view to reaching the rest of the country;

(d) Support the participation of professional women who hold chiefly titles in village councils, including through flexible working arrangements and ensuring equal pay for women and men village representatives.

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Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Chad

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Chad from 4 to 14 December 2017. In the report, the Working Group describes the situation regarding the rights of women and gender equality in the country and analyses achievements thus far and the challenges remaining. It examines the legal, institutional and policy framework for promoting equality and the participation and empowerment of women in family and cultural life, in economic and social life, and in political and public life, as well as their access to health care. The Working Group presents recommendations for further progress in eliminating discrimination and promoting equality.

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Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Chad*, **

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* Circulated in the language of submission and English only.

** The footnotes to the analysis contained in the present report are not included in this version owing to the mandated word limit. A version containing the full references can be found at http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/CountryVisits.aspx. The report draws on a variety of sources, including documentation and statistics provided by the State as well as United Nations sources. It also draws on information from the international human rights mechanisms, in particular, the Committee for the Elimination of Discrimination Against Women.

I. Introduction

A. The visit

1. The Working Group on the issue of discrimination against women in law and in practice visited Chad from 4 to 14 December 2017 at the invitation of the Government. The members of the Working Group met with various stakeholders in N'Djamena, Moundou, Déli, Doba, Kara and Koumra. The Working Group wishes to thank the Government for its help in organizing the visit and for its cooperation during the visit.

2. In N'Djamena, the Working Group met with the Minister of Justice and Human Rights, the Minister for Women's Affairs, Early Childhood Protection and National Solidarity, the First Lady, the Secretary of State for Foreign Affairs and representatives of several other ministries and government agencies. Outside the capital, the Working Group met with governors, mayors, regional human rights, social action, health and education officials and representatives of the police.

3. The members of the Working Group also met with United Nations officials working in Chad and representatives of associations, as well as with women and girls in local communities. They visited prisons, health centres, an emergency shelter and primary and secondary schools in N'Djamena and Moundou and an agricultural production and processing facility in Koumra. The members of the Working Group met as well with Muslim, Catholic and Protestant religious authorities. The Working Group is grateful to the team of the Office of the United Nations High Commissioner for Human Rights in N'Djamena for the support it provided before and during the visit.

B. Context

4. Chad, which still bears the marks of decades of internal conflict, is currently facing a situation of both domestic and regional instability caused by the threat of terrorism, the humanitarian crisis in the Lake Chad area, the conflicts raging in a number of neighbouring countries and inflows of refugees numbering in the hundreds of thousands. The country's already poor social and economic conditions have been exacerbated in recent years by several sharp recessions.

5. Human development index values for Chad, which was ranked 186th out of 188 countries in 2016, are among the lowest in the world. The country's low literacy rate (50.1 per cent) displays a very clear gender inequality (22 per cent of women are literate, as opposed to 54 per cent of men); and access to health care and to water and sanitation is limited (only 56.1 per cent of the population has access to an improved water source and only 8.2 per cent to improved sanitation facilities). Climate change — in the form of rising temperatures and ever scarcer rainfall — has contributed to increased food insecurity, thus further worsening the situation.

6. According to a number of international indicators, Chad ranks near the bottom in terms of gender equality as well. For example, it is in 157th place out of 159 countries on the gender inequality index of the United Nations Development Programme and 141st place out of 144 in the World Economic Forum's global gender gap index. Although there are differences from one region of the country to another, all Chadian women experience severe discrimination in every facet of their lives.

7. Despite the progress posted in recent years, numerous systemic constraints, such as corruption, legislative gaps and the way public officials approach societal and cultural challenges, continue to raise barriers preventing the achievement of gender equality. Chad cannot hope to improve its socioeconomic situation and achieve the Sustainable Development Goals by 2030 as long as inequalities between women and men persist in the country.

II. Legal, institutional and policy framework

A. Legal framework

1. Ratification of international and regional instruments and cooperation with human rights mechanisms

8. The Working Group welcomes the ratification by Chad, without reservations, of nearly every international human rights instrument and hopes that the country will reaffirm its commitment to effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women by ratifying both the Optional Protocol thereto and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol). The Working Group also welcomes the engagement of Chad with various human rights mechanisms, as exemplified by the invitation extended by the Government, on its own initiative, to the Working Group. Chad has ratified all the fundamental conventions of the International Labour Organization except the Maternity Protection Convention, 2000 (No. 183), and the Domestic Workers Convention, 2011 (No. 189).

2. Key achievements in the promotion of women's rights and gender equality

9. The Working Group notes that Chad has a solid legislative basis for ensuring gender equality and welcomes the efforts it has made to strengthen its legal framework.

Constitution

10. Article 14 of the Constitution provides that the State has a duty to ensure that all forms of discrimination against women are eliminated and that women's rights are protected in all spheres of private and public life. With that article, Chad acknowledges that gender equality cannot be achieved simply by declaring it to exist and that the State has obligations in terms of eliminating all forms of discrimination. In addition, the Constitution recognizes the primacy of international law over domestic law (art. 221).

Labour Code (Act No. 038/PR/96 of 11 December 1996)

11. The Labour Code establishes a series of legal safeguards, including the prohibition of gender-based discrimination in recruitment, promotion and remuneration (art. 6) and the right to maternity leave of 14 weeks (arts. 108 and 109), in accordance with international standards.

Reproductive Health Act (Act No. 006/PR/2002 of 15 April 2002)

12. The Reproductive Health Act prohibits all forms of violence such as female genital mutilation, early marriage, domestic violence and sexual abuse (art. 9).

13. The Act also provides for equality and prohibits discrimination, including gender-based discrimination, in the area of reproductive health (art. 3). It establishes the right of individuals to decide freely and responsibly on matters related to reproductive health (art. 4), to have access to information and education about birth control and means thereof (art. 6) and to receive the best possible health care and protection from practices that are harmful to reproductive health (art. 7).

Order No. 06/PR/2015 of 14 March 2015 on the prohibition of child marriage, ratified by Act No. 029/PR/2015 of 21 July 2015

14. The Order establishes that the minimum legal age for marriage is 18 (art. 2) and it makes child marriage punishable by a term of imprisonment of 5 to 10 years and a fine of between 500,000 and 5 million CFA francs (art. 4). Previously, the minimum legal age for marriage had been 15 for women and 18 for men (art. 144 of the Civil Code). Those same penalties apply to any person who forces a child to marry (art. 4) and to any civil, traditional or religious authority who officiates at a child marriage (art. 5).

Criminal Code (Act No. 2017-01 of 8 May 2017)

15. The new Criminal Code categorizes the following acts as punishable offences: sexual harassment (art. 341); domestic violence (art. 342), in particular, any act that, without necessarily doing physical harm to a person, subjects that person to degrading, humiliating or inhuman treatment likely to cause psychological distress, trauma or a mental disorder or causes violence of a similar nature to a spouse, common-law spouse or partner; incest (art. 353); rape (arts. 349 and 350); and sexual abuse or exploitation of a minor (arts. 353–364).

16. The Working Group welcomes the fact that, with the adoption of this Act, therapeutic abortion is allowed in cases of sexual assault, rape, incest and when the pregnancy endangers the physical or mental health or the life of the mother or the fetus (art. 358, second paragraph). That authorization is an improvement on Act No. 006/PR/2002, under which abortion was allowed only in very limited circumstances.

3. Challenges

Marriage and family relations

17. The Working Group is gravely concerned about the numerous discriminatory provisions found in the country's laws on marriage and family relations that are incompatible with the Constitution and international standards. The Civil Code, for example, states that the husband is the head of the household (art. 213) and that it is for the husband to decide where the family lives (art. 215). Similarly, under Order No. 03/INT/SUR/1961 of 2 June 1961, which regulates civil status matters, polygamy is the default marital regime unless the husband decides expressly not to opt for it (art. 11). If the husband engages in polygamy despite having waived his right to do so, the marriage may be terminated at the wife's request and the bride price in that case may or may not be returned.

18. Despite the country's strong constitutional framework and specific laws that ensure equality between women and men, the fact that different legal traditions coexist in Chad weakens the force of statutory law. Customary and religious law in some cases discriminate against women in the areas of marriage and family relations, specifically with regard to inheritance, property, polygamy, legal age of marriage and child custody.

19. This situation is exacerbated by the fact that the country has yet to adopt a family code that is in line with international standards and consistent with its constitutional obligation to eliminate all forms of discrimination against women. According to some of the Working Group's interlocutors, some religious groups are lobbying against the adoption of a family code, a draft of which has been under discussion for nearly 20 years (see para. 36). Some aspects of that draft are of concern to the Working Group, namely, the public prosecutor's authority to grant exceptions to the minimum age for marriage; the continued legality of polygamy, which allows a husband to contract several marriages; and, even though the majority of the Working Group's interlocutors acknowledged that customary and religious laws on inheritance discriminated against women, the establishment of a special inheritance system for people wishing to have their estates distributed under sharia law.

Criminalization of adultery

20. The Working Group is concerned that, under the Chadian Criminal Code, adultery is a crime punishable by imprisonment for a term of 2 to 6 months and a fine (art. 385). The provision under which homicide and assault causing bodily harm are excusable if the victim is the spouse of the perpetrator or the spouse's partner in adultery caught in the act (art. 69) is an unacceptable legalization of honour killing, which primarily has women as its victims. The Working Group recalls that, in stating its stance on this issue, it has consistently maintained that the criminalization of adultery is contrary to article 2 of the Convention on the Elimination of All Forms of Discrimination against Women and that the criminalization of sexual relations between consenting adults is an invasion of the privacy of the persons concerned and thus is a breach of article 17 of the International Covenant on Civil and

Political Rights. While adultery may be a conjugal offence under civil law, in no case should it be dealt with by the criminal justice system.

Labour law

21. The Labour Code contains discriminatory provisions, such as article 205, which prohibits night work by women in the industrial sector, and article 336 (c), which states that some types of work or establishment may be prohibited, by decree, to women because of the risks posed to their health, safety or moral reputation. The legal provisions under which women must be "protected" from certain types of work are often founded on stereotypical views of women's physical abilities and on outdated ideas about the role they can play.

Sexual and reproductive rights

22. Since justice officials and doctors are inaccessible to the vast majority of girls and women, particularly in rural areas, the Working Group finds it regrettable that, under the Criminal Code, access to abortion requires authorization by the Public Prosecution Service once a doctor has certified the facts of the case (art. 358, third paragraph). In an emergency, that requirement could endanger a woman's life.

23. The Working Group also finds it regrettable that, under the Criminal Code, any woman who has had an abortion and any individual who has been directly or indirectly involved in or aided in the performance of an abortion are punished with imprisonment and a fine (art. 356) (see paras. 55, 56 and 63).

Gender-based violence

24. Chad does not have a comprehensive law preventing and combating violence against women. Moreover, some forms of violence against women, such as marital rape, are not criminalized even though 12 per cent of women, according to official figures, have reported that they have been victims of violence at some point in their lives; in 73 per cent of the cases, their husband or partner was the perpetrator. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), which is open to States that are not Council members and is the most comprehensive instrument in this area, could serve as a model for the preparation of such a law.

25. The Working Group finds it regrettable that the Criminal Code, under articles 359 to 361 in particular, does not effectively protect girls from sexual abuse by school staff, despite the widespread nature of the problem (see para. 51).

Sexual orientation

26. The Working Group finds it regrettable that sexual relations between persons of the same sex continue to be an offence under the Criminal Code (although some changes were introduced) which is punishable by imprisonment for between 3 months and 2 years plus a fine (art. 354).

B. Access to justice

27. The Working Group notes the measures taken by Chad to improve access to justice, such as the formulation by the Ministry of Justice and Human Rights of a sectoral policy for the period 2018–2027, which will focus on the issue of access to the legal system and justice, and the 2014–2020 programme to support justice in Chad, which identifies gender equality as an important objective. Many of the Working Group's interlocutors, however, stressed that it is still challenging for women to gain access to justice, in part because of the system's numerous shortcomings and in part because some justice officials do not enforce the law. They further maintained that, in Chad, justice was inaccessible to the majority of the population because of the costs involved, the distances that must be covered to reach a court, language barriers and the virtual non-existence of any legal aid other than that provided by non-governmental organizations (NGOs). They also asserted that the country's

justice system suffered from systemic delays and inefficiency, that it did not treat people equally, that it enjoyed little credibility because of rampant corruption and that some groups of people seemed to be exempt from the enforcement of court decisions. Some of the people the Working Group spoke with, for example, complained about the laxity of some judicial authorities and said that political interference had been used to secure the release of persons who had been detained for committing acts of violence against women. According to a recent survey by the Ministry of Justice, corruption (for 40 per cent of respondents) is the main complaint about the justice system; it is followed by the slowness of judicial proceedings (23 per cent of respondents) and the frequent or unexplained postponement of hearings (14 per cent of respondents).

28. In addition, the Working Group is concerned that the country has no special court for handling cases of violence against women and that the sole special police unit set up to combat sexual and gender-related offences, the Child Protection Unit, exists only in N'Djamena. The Working Group is also concerned about the underrepresentation of women in the national police force (women make up 7.05 per cent of the force, with only 2 per cent of them in positions of responsibility) and the judiciary (32 of the country's 500 judges, or 6.4 per cent, are women). In addition to being another example of discrimination against women, such underrepresentation makes it harder for women to file complaints and gain access to justice. The few women who have the courage to begin judicial proceedings when their rights are violated face numerous social, cultural and financial hurdles.

C. Institutional and policy framework

1. Institutional framework

29. The Working Group notes the initiatives undertaken at the local and community levels by the Ministry of Women's Affairs, Early Childhood Protection and National Solidarity and the Ministry of Justice to eradicate specific harmful practices. However, the realization of women's rights and gender equality should not be the responsibility of the Ministry of Women's Affairs alone, which, with its meagre budget of approximately 1 per cent of the national budget, cannot shoulder by itself the immense task of eliminating discrimination against women in Chad, bearing in mind that women constitute 50.6 per cent of the population. Some ministries have gender focal points, but the focal points lack adequate training and budgets; as a result, their impact is limited. In addition, since the ministries concerned do not coordinate their efforts or undertake joint initiatives, there is less potential for action and positive changes to support the realization of women's rights.

30. The Working Group welcomes the adoption in the National Assembly, during the Working Group's visit, of the National Human Rights Commission Reform Act and hopes that the new institution will comply with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in particular in terms of independence, composition, monitoring and complaint procedures. The Working Group regrets, however, that the Act does not provide for the establishment of a standing subcommission especially for women's rights and that only 4 of the Commission's 11 members will be women.

31. The Working Group noted that NGOs were sometimes alone in offering services to meet the specific needs of women in a setting where the State institutions meant to provide such services often either do not exist or are not functional, especially outside the capital. The services offered almost exclusively by NGOs, often with backing from technical and financial partners, include legal aid and psychosocial support for female victims of violence, literacy courses and a range of prevention and awareness-raising initiatives (see para. 67).

2. Policies pursued

32. The Working Group welcomes the measures that have been taken to address gender inequality in key sectors. For instance, Chad possesses a National Gender Policy, a National Strategy on Gender-based Violence and a National Development Plan that takes into account the specific needs of women and girls.

33. In the education sphere, Chad has adopted the National Strategy to Promote the Education of Girls (2004–2015). As regards health, the specific goals of the National Health Policy (2016–2030) include reducing the maternal mortality rate by the year 2030 and providing universal access to sexual and reproductive health services, including family planning and health information and education.

III. Participation of women in family and cultural life, in political and public life, in economic and social life, and their access to health care

34. The Working Group acknowledges the efforts that have been made to tackle discrimination against women, including legislative changes. The persistence of discrimination in family and community life, however, is a major impediment to the full achievement of equality in all spheres of life, including political, public, economic and social life, and in respect of access to health care.

A. Family and cultural life

35. All the Working Group's interlocutors over the course of the visit emphasized the influence that culture (referring to certain harmful practices and religious interpretations) had on the full realization of women's rights and the pursuit of equality. Although more and more women are raising their voices and asserting themselves professionally, women are still second-class citizens who are excluded from decision-making. According to information received by the Working Group, women are sometimes seen as the property of their husbands, who acquire them by paying a bride price; they are often expected to stay at home and may live in fear of their husbands. In some communities, women are still not allowed to voice their opinion.

36. The Constitution of Chad nonetheless provides a solid foundation for ensuring women's right to equality in the family, a right that Chad undertook to respect on ratifying the Convention on the Elimination of All Forms of Discrimination against Women. However, efforts to ensure that women can exercise that right are complicated by the existence of various legal systems that are based on an obsolete Civil Code, which dates back to the colonial era, and on customary and religious law (see paras. 18, 38 and 47).

37. Chad has one of the world's highest rates of child marriage. The median age of marriage for women is 16 (as opposed to 22 for men); 68 per cent of girls marry before they are 18 and 30 per cent before they turn 15. Even though child marriage is a crime in Chad, the practice continues to go wholly unpunished.

38. At the same time, 39 per cent of women are in polygamous marriages (that figure does not take into account the large number of unregistered customary marriages). The Working Group shares with the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child the view that polygamy is contrary to the dignity of women and girls and infringes on their fundamental rights and freedoms, including the right to equality and protection within the family. The effects of polygamy include harm to the physical and mental health of wives; material harm and deprivation; and emotional and material harm to children, often with serious consequences for their welfare. States parties to the Convention on the Elimination of All Forms of Discrimination against Women have an explicit obligation to discourage and prohibit polygamy, which is contrary to the Convention. Studies have shown that polygamy often results in increased poverty within the family, especially in rural areas. The Maputo Protocol states that monogamy should be encouraged as the preferred form of marriage and that the rights of women in marriage and the family, including in polygamous marital relationships, should be promoted and protected (art. 6 (c)). The Working Group is concerned about the continued practice of female genital mutilation (see paras. 51, 52, 59 and 66) and of levirate and sororate marriage, which constitute serious violations of women's rights.

39. Many of the Working Group's interlocutors seemed to agree that a culture is neither static nor immutable. Moreover, numerous experts and human rights treaty bodies have established that neither cultural diversity nor freedom of religion may be used to justify discrimination. The discriminatory and violent practices to which women are subjected, including those ostensibly based on custom, culture or religious interpretation, must be eliminated regardless of their origin.

40. The Working Group heard repeatedly that some sectors of society did not wish to adopt principles that were dictated from the outside. The Working Group's aim is not to impose a model but to encourage all national and local stakeholders, religious and traditional leaders and government officials to promote the benefits and protection offered by a culture that is based on the principles of equality, solidarity and respect and, at the same time, to develop sustainable strategies to combat discrimination against women and foster gender equality, as enshrined in the Constitution and the international human rights instruments ratified by the State. Chadian culture has evolved over the centuries, and Chad should be able to draw on the positive aspects of its culture to change attitudes and practices that have their roots in long-standing cultural traditions. Several individuals, associations and government agencies at the regional and local levels have already begun to effect commendable change. The Working Group was informed, for example, that communities in some areas had adopted initiation rites for girls that did not involve any cutting. Such efforts will trigger inward changes and should be given additional support.

B. Political and public life

41. Although some progress has been made, women in Chad are still significantly underrepresented in all areas of political and public life, especially in decision-making bodies; this is true even at the community level. At the time of the Working Group's visit, only 4 of the Government's 28 ministers (or 14.28 per cent) and 4 of its 19 secretaries of State (or 21.05 per cent) were women. Regrettably, following a Cabinet reshuffle on 24 December 2017, now only 2 of 20 ministers (10 per cent) are women; and only 27 women (14.36 per cent) sit in the 188-member National Assembly. Chad thus ranks 140th out of 193 countries in terms of the percentage of women lawmakers. Women are similarly underrepresented in the senior levels of the civil service: they account for only 2 of the country's 56 prefects (3.57 per cent); 4 of the 23 mayors (17.39 per cent); 6 of the 30 members of the Economic, Social and Cultural Council (20 per cent); and 2 of the 29 general secretaries (6.89 per cent). Not one of the 23 regional governors is a woman. Women are underrepresented in the foreign service as well: only 2 out of 24 ambassadors are women (8.33 per cent). Within the Ministry of Education and Promotion of Civic Responsibility, there is not a single woman among the directors and general secretaries; elsewhere in the sector, women occupy around 23 per cent of the technical department head positions, 8 per cent of regional representative positions, 0.2 per cent of primary-school director posts, 8 per cent of middle-school director posts and 10 per cent of secondary-school director posts.

42. Women's limited access to education and the wide gap between girls and boys in this area explain in great part women's unequal access to decision-making positions. The Working Group welcomes the commitment by the President to establish a quota of 30 per cent of such positions for women and hopes that this commitment will be backed up by appropriate legislative measures.

43. NGOs and, in particular, women human rights defenders, also have a crucial role to play in empowering women and eliminating discrimination against them (see para. 67). The Working Group is concerned about reports of harassment, threats, retaliation and violence against human rights defenders. A frank and open discussion of all human rights issues, even those considered controversial, is crucial if the country is to make progress. Such a discussion requires effective enjoyment of the freedom of expression that is guaranteed under a number of international instruments and the Constitution of Chad.

C. Economic and social life

44. Although there are virtually no formal obstacles in the law to women's participation in economic life, the Working Group's interlocutors mentioned several factors that amount to an impediment to the effective participation and empowerment of women. To start with, household chores and childcare are considered women's work, in addition — in rural areas — to fetching water and performing gruelling farm tasks. According to many testimonies, husbands would often rather that their wives stay home; they sometimes even try to forbid them from working. Only 43 per cent of women participate in the workforce (as opposed to 74 per cent of men). Women work chiefly in the informal retail and services sector (62 per cent) and agriculture (29 per cent), where they earn low incomes and have no social protection. Moreover, the Working Group was informed that female domestic workers who left the countryside to go to N'Djamena often found themselves in situations of high vulnerability and instability and became victims of multiple forms of violence and exploitation. The Working Group finds it regrettable that there is no up-to-date information on the situation of these women and would welcome in-depth studies of the situation.

45. The relevant State authorities acknowledged that, aside from maternity leave, few policies were in place to foster women's economic participation. By way of example, there are no State-funded day-care centres for children, and the cost of the few privately operated day-care centres is beyond the reach of most working women.

1. Access to land

46. The Working Group is particularly concerned about women's limited and unequal access to, use of and control over land. According to official figures, 62.4 per cent of women aged 15 to 49 do not own land (74.9 per cent in urban areas and 58.6 per cent in rural areas), compared with 43.4 per cent of men (67.6 per cent in urban areas and 33 per cent in rural areas). The percentage of women who own land in their own name without a co-owner — at 13.6 per cent (10.4 per cent in urban areas and 14.7 per cent in rural areas) — is also lower than that of men, 48.7 per cent of whom are sole owners of their land (26.1 per cent in urban areas and 58.4 per cent in rural areas).

47. Although the statutory law of Chad contains no provisions denying women the right to own land, the rules and practices of most communities are based on customary law and sharia law, which prevent women from owning or inheriting land — or do not grant women and men equal shares — in violation of the principle of equality enshrined in the Constitution and the Convention on the Elimination of All Forms of Discrimination against Women. Many women explained that their empowerment and participation in economic and social life were hindered by the persistence of discriminatory rules and practices. This is a matter of great concern, as the agricultural sector, in which land is the main means of production, employs more than two thirds of the country's economically active population, over half of whom are women.

48. The Working Group noted that there have been a few isolated initiatives to distribute land to women's organizations in some areas but that long-term policies and strategies are lacking. The members of the Working Group met with several women who, by launching private initiatives in the form of women's cooperatives or groups that harvest, produce, process and sell farm products, are struggling to achieve economic self-sufficiency; regrettably, they do not receive any support from the authorities, such as access to credit or training in entrepreneurship.

2. Right to education

49. Despite the efforts of the Ministry of Education and the progress made in recent years, the disparities between men and women in education are still considerable and they are a primary cause of inequality. The female literacy rate stands at 22 per cent, compared with 54 per cent for males. According to the most recent figures available (2014/15 school year), girls accounted for only 43.28 per cent of the children enrolled in primary school; and 32.2 per cent of girls finished primary school, as opposed to 50.8 per cent of boys. The gross enrolment rate in secondary education was 8.8 per cent for girls, as opposed to 28.9

per cent for boys, while the completion rate was 7.8 per cent for girls and 29.5 per cent for boys. Girls accounted for only 16 per cent of university students.

50. These disparities can be traced to the discrimination and violence that girls are subjected to in their families and communities. Several of the Working Group's interlocutors made specific reference to the excessive number of household and farm chores that fell to girls and the long distances to schools. Eight per cent of girls aged 5 to 11 and 21.9 per cent of those aged 12 to 14 spend 28 hours a week or more doing household chores (as opposed to 4.7 per cent and 9.5 per cent of boys in the same age groups); 11.4 per cent of girls aged 15 to 17 spend 43 hours a week or more doing household chores, as opposed to 4.1 per cent of boys. The situation is compounded by the meagre allocation of State resources for the education of girls in a context where education — which is free under the law — is not free in practice. The Working Group was informed, for example, that parents must help defray the operating costs of State schools (at least 2,000 CFA francs per child) and buy uniforms and school supplies (for an average of 20,000 CFA francs per child a year). According to a number of statements made to the Working Group, if, for financial reasons, a choice has to be made, parents — in part because of their negative views about sending girls to school — decide to send their boys to school rather than their girls.

51. Other obstacles that stand in the way of making sure girls stay in school include rites of passage into puberty, such as female genital mutilation (see paras. 38, 52, 59 and 66), which are usually followed by child marriage, often forced and often leading to early pregnancy, as well as violence, harassment and sexual abuse in school or on the way to and from school. Despite numerous testimonies indicating that violence against girls is commonplace in school environments, several education sector officials downplayed the magnitude of the problem. The members of the Working Group were shocked to hear from one school director that there could be "love affairs" between teachers and students and that such relationships were not reprehensible because they were consensual. The Working Group strongly condemns such behaviour, since there cannot be consent when one party exercises that kind of authority over the other. Such behaviour, especially when minors are involved, constitutes sexual abuse and should not be permitted. While welcoming the fact that some schools have brought women on staff to monitor the situation of girls, the Working Group finds it regrettable that schools generally lack any kind of system for preventing, detecting or responding to violence against girls on and around school premises.

D. Right to and access to health care

1. Access to health care

52. The life expectancy of women in Chad is 47.1 years, compared with a regional average of 60 years. The health situation of the country's women is one of extreme vulnerability, owing mainly to poor nutrition; inadequate sanitation and limited access to safe drinking water, which leaves women at risk of infectious and parasitic diseases; inadequate knowledge about women's health issues and their sexual and reproductive health rights, which is associated with early pregnancy and a lack of decision-making authority in matters concerning their own health; frequent pregnancies and a high fertility rate (almost 6.4 children per woman on average; see para. 54); an HIV prevalence rate that is higher among women than men (1.8 per cent versus 1.3 per cent, which rises in urban areas to 5.8 per cent versus 2.9 per cent); and harmful customs and practices, such as female genital mutilation (see paras. 38, 59 and 66). Despite the efforts of the Ministry of Health to expand the coverage of free basic health care and maternal care, access remains very limited because of structural weaknesses that include the shortage of staff, equipment and medicines.

2. Sexual and reproductive health and rights

53. Chad has one of the highest maternal mortality rates in the world (856 deaths per 100,000 live births in 2015). In 2014, only 22 per cent of births took place in health facilities. Not one of the 23 regions has enough health centres offering emergency obstetric

and neonatal care. The Working Group is extremely concerned that maternal care — which should be free, in accordance with State policy — has not been provided free of charge since the budget cuts in 2016. To cite just one example, for caesarean sections and deliveries with complications, the surgical procedure itself is free, but patients are charged for the use of a hospital bed (between 1,000 and 2,000 CFA francs). Medicines and caesarean kits are often not available. The Working Group learned as well that the consent of the husband or family is sought prior to a caesarean section being performed, even in emergencies, despite the fact that no such consent is required when men undergo a surgical procedure. This practice, which is symptomatic of an environment of discrimination and male domination in access to emergency care, should be abolished as soon as possible. A husband should not have the right to decide whether his wife should live or die.

54. The Working Group regrets that, despite efforts to improve access to family planning, only 5 per cent of Chadian women use contraception. Although the law grants women the right to decide freely on the spacing of their children (see para. 13), the reality is quite different. Interviews with medical professionals revealed that most doctors would only issue contraception with the husband's consent on the pretext that women who use contraception without their husbands' knowledge could be subjected to domestic violence, since a man expects his wife to have as many children as possible. Early and insufficiently spaced pregnancies pose a significant risk to the health and survival of women (women between 15 and 19 years of age account for 36 per cent of pregnancies).

55. The Working Group also regrets that, in the absence of a decree or implementing regulations, the legislative provisions on abortion (see para. 14) remain largely unknown to medical professionals, are rarely enforced and are difficult to implement, particularly in rural areas. This is of particular concern given that some interlocutors stated that many Chadian women resorted to clandestine abortions, which was another cause of maternal mortality. Because the practice is illegal, no data are currently available; however, it is a phenomenon that needs to be further examined and better understood. Given the prevalence of sexual violence against girls (which some people claim is of epidemic proportions), it is unacceptable that there are no options available to young girls who become pregnant as a result of rape. As demonstrated by the World Health Organization and detailed in one of the Working Group's reports, early pregnancies have irreversible consequences for the physical and mental health of girls. Pregnancy and childbirth are the second most common cause of death among girls aged 15 to 19 around the world. They face a high risk of death or severe injury, including fistulas, as a result of pregnancy.

56. Comprehensive sexuality education based on scientific evidence and the availability of effective contraception are both essential to reduce unwanted pregnancies and prevent clandestine abortions. Indeed, the World Health Organization has shown that the lowest abortion rates are found in countries where information and modern forms of contraception are widely available and where abortion is legal. Criminalizing the termination of a pregnancy does not reduce the need for it. In line with international standards, abortion — which is not to be considered as a method of contraception — should be decriminalized and should be made easily accessible at least in cases involving rape, non-viable pregnancies and pregnancies in girls under the age of 16 in view of the enormous health risks involved.

IV. Violence against women, and women victims of multiple forms of discrimination

A. Violence against women

57. The vast majority of the Working Group's interlocutors acknowledged the high prevalence of violence against women and girls as a problem deeply rooted in the country's patriarchal and traditionalist society. Unfortunately, in the absence of a reliable and centralized data-collection system, the Working Group had access only to partial data that do not necessarily illustrate the full extent of the problem.

58. According to official figures, 29 per cent of women aged from 15 to 49 years have been victims of physical violence at some point in their lives, with the husband or partner cited as the perpetrator in 66 per cent of cases; 12 per cent have been victims of sexual violence, committed in 73 per cent of cases by the husband or partner; and 35 per cent have been victims of acts of physical, emotional or sexual violence at the hands of the husband or partner. The Working Group finds it regrettable that some members of the police force and the judiciary, who deem the maintenance of family unity to be more important than ensuring respect for and the protection of women's rights, do not enforce the law and are thus perpetuating the situation of impunity. Penalties have a deterrent effect and are one of the best tools for prevention.

59. The experts are also alarmed that 38 per cent of women have undergone female genital mutilation, with the rate as high as 96 per cent in some regions. The Working Group is concerned by the scant progress made towards eliminating this practice. Despite the adoption of a law in 2002 prohibiting female genital mutilation and the many prevention efforts undertaken by a range of actors, the practice persists, especially in the country's more remote areas. Furthermore, the proportion of women who have been subjected to the most extreme form of female genital mutilation, namely, infibulation (excision with stitching of the vaginal opening), rose from 2 per cent in 2004 to 9 per cent in 2014. The rate is higher among girls aged under 14 years than it is among women overall (12 per cent versus 9 per cent). Over the 10-year period from 2004 to 2014, the proportion of excised women fell by only 7 percentage points, from 45 per cent to 38 per cent. Drastic measures must be taken and no effort spared to eradicate this abhorrent form of violence that has serious and irreversible psychological and physical consequences for girls and women, including the risk of death as a result of the procedure itself or during childbirth. It is essential to keep encouraging people to report cases they are aware of, to impose strict penalties on those responsible, to involve and raise awareness among traditional and religious leaders, and to find economic alternatives for women who perform excisions. In the regions where such strategies have been adopted, they are already bearing fruit. No belief or custom may be invoked or misconstrued as justification for violating the rights of women and girls or for torturing or oppressing them.

60. Given the scale of the problem, the experts regret that the action taken by the Government and other stakeholders to combat violence against women in Chad is still too fragmented and does not address the root causes of the problem, one of which is the failure to enforce relevant laws (see paras. 35 and 58). The experts welcome the adoption of the National Strategy on Gender-based Violence, but find it regrettable that the ministries concerned do not have specific budget lines for efforts to combat such violence. Without a comprehensive system that offers effective protection, isolated actions will remain futile and incapable of bringing about true change.

B. Women victims of multiple forms of discrimination

61. While all Chadian women are subjected to discrimination, the experts were informed that some women were particularly vulnerable, such as women with disabilities or HIV/AIDS, widows, older women, Fulani women (nomadic or semi-nomadic indigenous communities), women refugees and displaced women. Furthermore, the experts are concerned about the culture of silence surrounding women in prostitution/sex workers and lesbian women that makes them invisible and more likely to be victims of human rights violations. In-depth studies should be conducted on all these groups of women in order to ensure that appropriate policies are developed to protect and empower them.

1. Rural women

62. The majority of Chadian women (76 per cent) live in rural areas. As demonstrated in the present report, rural women are even more vulnerable to discrimination. For instance, rural women are more likely to be in polygamous marriages (39 per cent, as opposed to 35 per cent in urban areas) and they have even less access to land, education and health care (see paras. 22, 44, 46, 55 and 59). Access to contraception is more limited (4 per cent versus 11 per cent) and, as a result, the fertility rate is higher; and maternal care is also less

available (only 16 per cent of births are attended by qualified personnel in rural areas, compared with 59 per cent in urban areas). The development of long-term strategies for the empowerment of rural women needs to be a priority.

2. Women in prison

63. The Working Group visited the N'Djamena prison, which has an inmate population of over 2,000 people (despite a nominal capacity of around 400). Among the prisoners were 58 women who, prior to the Working Group's visit, were kept in the same space as male inmates. The Working Group was appalled by the inhuman conditions of detention to which these women were subjected. Some of them, including pregnant women, women imprisoned with their children (aged between 3 months and 5 years) and minors, lived in extremely confined and unsanitary conditions with very limited access to food and health care. The reasons for their incarceration included theft, assault, homicide (of a violent husband or father-in-law or of a co-wife, for example), abortion and alleged acts of terrorism.

64. The Working Group also visited the Moundou prison, which houses approximately 700 people (despite a nominal capacity of around 250). That number includes 14 women, who were kept in a section separate from the male inmates. There too, some women had been imprisoned with their children (aged from a few weeks to 5 years). Some of the women said they had been taken to prison immediately after giving birth, which is in violation of article 22 of the country's Criminal Code.

65. None of the incarcerated women had received legal aid and some had been in pretrial detention awaiting a court decision for over six years. Furthermore, neither prison offered the training activities that are so crucial to the rehabilitation of women prisoners. The experts hope that the President's pledge to release all women in prison with children will be honoured soon (according to the authorities, seven women and two girls were released, on the President's instructions, following the Working Group's visit).

3. Internally displaced and refugee women

66. In the wake of internal crises that have beset neighbouring countries, Chad has received hundreds of thousands of refugees, asylum seekers, internally displaced persons and returnees (620,186 persons). A total of 56 per cent of refugees are women, of whom 68.68 per cent occupy the role of head of the household. The Working Group was disappointed to learn that internally displaced and refugee women and girls are subjected to multiple forms of gender-based violence, including sexual violence. The Office of the United Nations High Commissioner for Refugees in Chad had registered a total of 1,247 cases of domestic violence in 2016; the nine categories of incident tracked each month were rape; sexual assault; female genital mutilation; physical assault; forced marriage, including child marriage; the denial of resources, opportunities and services; psychological and emotional abuse; sexual services rendered for survival and sexual exploitation; and human trafficking. There have been reports of a rise in violent acts in the Lake Chad region, where a large number of displaced persons are found; in 2017, there were 151 cases reported in June, followed by 186 in July, while in 2016, there had been 104 cases reported each month. Moreover, according to some reports, women and girls are increasingly resorting to survival sex in exchange for money or food in a context where structures for the identification, referral and care of victims are weak or non-existent.

V. Conclusions and recommendations

A. Conclusions

67. **The Working Group acknowledges that sound progress has been made towards the promotion and protection of women's rights in Chad. However, there is still a very long way to go before women can finally enjoy their fundamental right to equality. Civil society, with support from technical and financial partners, is often obliged to step in where the State is absent.**

68. The Working Group was fortunate enough to meet with an array of admirable women, men and associations who are engaged in the effort to ensure gender equality in Chad. However, progress towards significant and sustainable change is being hampered by the fragmented nature of their work and weak coordination between ministries. More decentralization is needed so that the local level of government can respond to the diverse requirements of communities across this vast country. Prevention and awareness-raising strategies should be supported by involving traditional and religious leaders at the community level, while making sure that women's voices are taken into account and that women are systematically involved in decision-making.

69. The majority of the interlocutors referred to poverty and entrenched cultural attitudes as justification for the discrimination against women. The Working Group stresses that neither poverty nor culture should be invoked as justification for oppressing women. It is not because of poverty that a girl is deprived of education and burdened with farm tasks, domestic chores or small-scale retail trade while her brother goes to school; that a girl is already married at the age of 13; that a girl is mutilated or tortured; or that a girl or woman dies in childbirth because the doctor refuses to perform a caesarean section without the husband's permission. The often-cited "influence of culture" sometimes costs women their lives. By invoking poverty and culture as justification for their refusal to implement the law, public officials in the health, justice, law enforcement and education sectors become accomplices to harmful practices that violate women's rights.

70. Inequality between men and women is, to varying degrees, a global phenomenon that transcends all religions, cultures and ideologies. To eliminate it, increased focus must be placed on enrolling girls in school and keeping them there; women, including rural women, must be enabled — legally, educationally and economically — to free themselves from the yoke of a patriarchal system that upholds the interests of the dominant male class; and an attitude of zero tolerance should be adopted regarding sexual and gender-based violence as part of the ongoing fight against the impunity and corruption that permeate Chadian society and widen the inequality gap. The Working Group hopes that the Government will continue its efforts towards the full realization of women's rights.

B. Recommendations

71. With regard to the legal framework, the Working Group recommends that the Government:

(a) Ratify and implement the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Maputo Protocol and two of the fundamental conventions of the International Labour Organization, namely, the Maternity Protection Convention, 2000 (No. 183), and the Domestic Workers Convention, 2011 (No. 189);

(b) Adopt, as soon as possible, a family code that is in line with international standards and, in the meantime, amend the discriminatory provisions contained in the Civil Code;

(c) Enact legislation to ensure gender parity in elected and appointed posts, and create mechanisms to implement that legislation;

(d) Amend the Electoral Code to require equal representation of men and women on candidate lists, including among those identified as heads of list;

(e) Amend the Labour Code and the Civil Service Act to ensure that preference is given to women whenever applicants are equally qualified;

(f) Amend or repeal the discriminatory provisions in the Labour Code;

(g) Ensure that the ongoing land reform process observes the precedence of statutory law over customary law and introduce quotas to ensure that women enjoy equal access to land;

(h) Amend the Criminal Code to explicitly prohibit levirate and sororate marriages;

(i) Decriminalize adultery;

(j) Decriminalize abortion and prepare a protocol on implementing the applicable legislation and communicate it to health-care professionals and the public in order to ensure access to such services;

(k) Adopt a comprehensive law preventing and combating violence against women;

(l) Ensure the effective implementation of existing legislation on the protection of women's rights and gender equality.

72. **Concerning access to justice, the Working Group recommends that the Government:**

(a) Establish specialized courts, or specialized chambers within existing courts, to rule on matters involving violence against women;

(b) Establish police units in each of the country's regions to deal with cases of violence against women;

(c) Recruit more women to the police force, the gendarmerie and the judiciary;

(d) Ensure that, to provide a response to instances of gender-based violence, women have access to free helplines; to emergency shelters; to medical, psychosocial and rehabilitation services; and to quality legal assistance that is both free of charge and tailored to the needs of women;

(e) Prohibit, issuing clear instructions to that effect, perpetrators from making use of mediation or reconciliation services in cases of violence against women;

(f) Raise awareness among practitioners of traditional and customary justice so that they refer cases of violence against women to the formal justice system and punish offenders;

(g) Strengthen the technical and human capacities of the judiciary, including by providing training to all involved parties, in particular police officers, gendarmes, justice officials, health-care professionals and social workers, on Chadian legislation and international instruments concerning the protection of women's rights and combating violence against women;

(h) Raise women's awareness of relevant legislation and encourage them to file complaints rather than to opt for mediation or reconciliation.

73. **At the institutional level, the Working Group recommends that the Government:**

(a) Strengthen the Ministry of Women's Affairs by providing it with sufficient human and financial resources so that it may ensure interministerial coordination on issues relating to women's rights and gender equality;

(b) Establish gender focal points in all ministries and in their regional and local offices, and equip them with adequate budgetary funding and capacity;

(c) Strengthen the Child Protection Units with a view to expanding their presence throughout the country and enabling them to adequately deal with cases of gender-based violence;

(d) Allocate sufficient human and financial resources from the regular State budget to the new National Human Rights Commission;

(c) Address structural weaknesses, such as the shortages of personnel, equipment and medicines, which prevent the Ministry of Health from ensuring free access to basic health care and maternal care;

(f) Train more traditional birth attendants and involve them in providing prenatal care and aiding with deliveries with a view to reducing maternal mortality.

74. The Working Group recommends that the National Human Rights Commission:

(a) Establish a standing subcommission on women's rights;

(b) Attach special priority to the prevention of discrimination against women and violence against women in carrying out its mandate, including by harmonizing domestic legislation with international instruments.

75. In regard to policies, the Working Group recommends that the Government:

(a) Adopt specific action plans, with accompanying time frames and budgets, to implement the National Gender Policy and the National Strategy on Gender-based Violence;

(b) Implement temporary special measures to foster the recruitment of more women in the public and private sectors;

(c) Consult with organizations working for gender equality with a view to ensuring that qualified female candidates apply for civil service positions and to establishing a roster of female candidates in support of this process;

(d) Take steps to encourage women's leadership, including by revitalizing the Network of Women Ministers and Parliamentarians of Chad;

(e) Take appropriate measures to promote women's participation in the formal economy, including by opening State-funded day-care centres;

(f) Support women's cooperatives and groups that harvest, produce, sell or process agricultural products, including by adopting a national microfinance strategy, granting loans on preferential terms and providing technical support for women-led projects;

(g) Ensure that girls enrol and remain in school, through such measures as providing academic coaching, building school canteens, supplying dry rations to families and increasing the representation of women in all institutions as a way to address the shortage of female role models;

(h) Prohibit immediately, issuing clear instructions to that effect, any form of relationship between male teachers and female students, and amend the Criminal Code to criminalize sexual abuse by teachers;

(i) Establish reporting mechanisms at schools to prevent, detect and/or respond to violence against girls on and around school premises;

(j) Prohibit, issuing clear instructions to that effect, health-care professionals from refusing to perform caesarean sections or other medical procedures on women without the consent of the husband or family, and establish that the informed consent of the woman is sufficient in itself;

(k) Ensure, by issuing clear instructions to that effect, that the informed consent of a woman is sufficient for her to receive contraception from health-care professionals, and strengthen measures promoting the use of contraception;

(l) Ensure, by issuing clear instructions to that effect, that health-care professionals inform the police or the justice system of any acts of violence against women that they detect in the course of their work;

(m) Conduct in-depth studies on the extent of clandestine abortions and their consequences for the health of women and girls so that action can be taken towards

full realization of the rights of girls and women and the reduction of maternal mortality;

(n) Incorporate human rights education at all levels of the school curriculum, promoting the rights of children and women, gender equality and combating all forms of discrimination and violence, as well as comprehensive sexuality education based on scientific evidence;

(o) Conduct in-depth studies on the situation of girls and women victims of multiple forms of discrimination, including domestic workers, indigenous women, older women, widows, displaced and refugee women, women in prostitution/sex workers and lesbian women, with a view to taking appropriate measures to better protect and empower members of these groups;

(p) To the fullest extent possible, devise alternatives to incarceration for women, especially pregnant women and mothers, and avoid lengthy pretrial detention, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules);

(q) Ensure that the treatment of women prisoners complies with international standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules);

(r) Step up efforts to raise awareness about harmful practices such as female genital mutilation, child marriage and forced marriage, polygamy, and levirate and sororate marriage;

(s) Raise public awareness about gender equality and combating discrimination against women at all levels;

(t) Support the initiatives of religious leaders to raise the awareness of their communities about gender-based violence and ensure that women are systematically involved in decision-making in their communities;

(u) Strengthen the participation of women in community dialogues, especially interreligious dialogues, with a view to maintaining peace; the existing radio programmes that feature the participation of women from each community could be produced in joint formats;

(v) Support the efforts of civil society organizations working to promote and protect women's rights;

(w) Ensure that activists and human rights defenders are protected from harassment, threats, retaliation and violence and are able to freely exercise their rights as recognized in international instruments and the Constitution.

76. The Working Group recommends that the country's technical and financial partners:

(a) Ensure effective harmonization of the cooperation framework with a view to avoiding fragmentation of actions and project approaches that do not guarantee the sustainability of programmes promoting gender equality and the full empowerment of women;

(b) Pursue a shared, sustainable strategy that uses a system built around not just results-based conditionalities but also on the requirement that a national anti-corruption mechanism be set up;

(c) Provide Chad with such assistance, including technical assistance, as it may need to implement the recommendations contained in the present report.